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Nathan Clifford

Democrat

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Democrat

(1803–1881)

By

Philip Greely Clifford

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To

MY WIFE

INTRODUCTION

In presenting to the public the story of the life of Nathan Clifford, the author is embarking on a sea, which is to him, strange and uncharted. There have been many hidden rocks, great stretches of unknown shoals, and numberless cross as well as counter currents. He is well aware that not all these dangers have been successfully avoided.

However the book be considered, the effort has been made, conscientiously, faulty though it may be, to make a partial payment for the privilege of bearing a surname, honored among men, years before the present writer was born. Therefore it is to be hoped that the seriousness of purpose may be considered in mitigation of the judgment of the work.

There has also been felt a desire to present properly to readers the story of one who belonged to what is now almost universally admitted to have been the wrong side of a great controversy. We are too apt to forget, in the light of victory, to investigate into the shadows of defeat. The glory of success ofttimes magnifies all those within its rays, at the same time minimizing everything outside and beyond. The winning party is incorrectly considered all good, while its opponents are erroneously held to be the absolute opposite. Therefore it is not unwise to look occasionally into the life of one who was not within the circle of the blessed.

To the men of the North who helped unflinchingly to bear the banner of the Democratic Party during the long

contest over slavery, have been applied epithets signifying not only error, but also guilt. All through this struggle Nathan Clifford was a Northern Democrat. Nay more, he was proud of the title. In all the subsequent years of his long life he never was ashamed of it. He reveled in it, and sincerely believed that he had followed the only right and honorable course.

If the following pages give the reader a picture of a man whose characteristics were virility and fearlessness, coupled with simplicity, a high sense of patriotism and great integrity mingled with intransigency, actuated by the sincere conviction that the continuation of the Federal Union demanded the adhesion to ideas which subsequent events have shown to be wrong in part, I shall be entirely satisfied. If the book leads a doubter to the belief that Judge Clifford, in his political beliefs, love of country and honesty of intention, was one of a large class, I shall feel that I have contributed to a better appreciation of the history of my country.

I wish to express my thanks to Major William H. Clifford, Honorable Clarence Hale, Mr. Philip G. Brown, Honorable William J. Curtis, Mr. Thomas L. Talbot and Mr. Walter G. Davis for their friendly criticism from which I have derived much profit. To my brother, the late Honorable Nathan Clifford, whose reading and research in preparation for writing the biography of his grandfather were cut short by sudden death, I owe the determination to carry on what he had begun.

P. G. C.

Portland, Maine,
November 21, 1921.

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Nathan Clifford, Democrat

Nathan Clifford, Democrat

CHAPTER I

Early Life

THE rigors of the New England climate and the rugged character of her citizens have very often been said to stand in the relation of cause and effect. Whether this may be scientifically true, or is a happy conceit of some poetically gifted admirer of northern temperament, it, at all events, furnishes a most reasonable explanation of the prevalence among the early settlers on our shores of those sterling qualities which some persons have considered predominating in the American of the first century of the Republic. The trials, hardships and privations with which the comers to the new land had to contend, must certainly have had the effect of keeping off or driving back again any but the stoutest hearts and the most enterprising spirits, till at length there could have been left only the physically strong, the resourceful and the brave.

In Nathan Clifford, who first saw the light of day August 18, 1803, in the little town of Rumney, Grafton County, New Hampshire, can be noticed the results of the difficult conditions under which his ancestors had lived. He was of English stock, the family having emigrated to this country in the year 1644. The great-grandfather of Nathan Clifford, Isaac Clifford, came into the

world in Hampton, New Hampshire, May 24, 1696. He moved to Rumney, where the latter part of his days was spent. He was collector and treasurer of the town. His son, Nathaniel, began life in Rumney in 1750. Nathaniel was like Isaac in character; public spirited, much respected, and filled the same local offices that his parent had held. He passed away January 23, 1824. The father of Nathan Clifford was Deacon Nathaniel Clifford, who was born in Rumney, September 23, 1778. The Deacon was of a very serious turn of mind, a trifle stern and puritanical, but highly regarded for intelligence and uprightness. He died in 1820. His wife was Lydia Simpson, the daughter of David Simpson of Greenland. She was a woman of great personal beauty and unusual energy, vigor and perspicacity. Her mental peculiarities were transmitted to her child, Nathan. She lived to see him occupy the position of Justice of the Supreme Court of the United States and ended her earthly career June 30, 1869, at the ripe old age of ninety-six.

Nature lavished upon Judge Clifford one great gift,—almost perfect health, which stood the strain of long days of hard work. Labors which would have broken down the constitution of a weaker man left him unscathed to do his tasks until, at last, the human machine, literally worn out, ceased to function.

Judge Clifford was the only son in a household of seven children. The finances of the family were very limited but sufficient to afford a comfortable home, free from any great privations. The Deacon lived in a small one and a half story house some distance from the more thickly settled portion of the village of Rumney This structure was standing up to a few years ago. It was in this modest abode that the Judge was born.

The means of education in the town of Rumney were very limited; the course of instruction was narrow and the

terms of school continued for only a short time during the winter months when the children could be spared from work on the farm. The early formative influences to which the boy was subjected were of the purest and healthiest sort. His home, though quite humble, was one in which the principles of honor and morality were both exemplified and taught. Parental affection had, however, cherished no further expectations for the future of the child than that he should succeed to his father's place and pursue the kind of life the latter had led. The Deacon entertained no hope for his son beyond what might be expected from a somewhat stingy Nature in return for a diligent cultivation of a very modest plot of ground.

In short there was nothing to distinguish young Nathan, to the casual observer, from any other New England farmer's boy, and the thought had apparently never occurred to the sire that his offspring would do more than carry on the life and traditions of his ancestors. Nathan was not brilliant. There was never noticeable in his character that glittering, flashing genius which shoots so high—and sometimes falls so low. The child had something better than genius. He possessed the ability for hard work and the slow, plodding retentive mind, with sufficient self-appreciation to lift the spirit out of the mire where wallows the drudge. It is to this characteristic of dogged determination to stick to a thing till mastered, and to the ability to use what he had acquired that must be attributed the success which came to him in after life.

The first school he attended was that of his native village. Poor as this was, with persistence and faithful work, he succeeded in securing for himself a fair intellectual groundwork. At the age of fourteen he told his elders of his desire to obtain an education more liberal than was within the reach of their means to afford him.

At first the family did not view with any degree of favor this departure from traditions. He finally, however, overcame their resistance and obtained their reluctant consent to his enrollment as a pupil in Haverhill Academy. At the time of Clifford's studies there, this institution had recently been established in a stone building, the original wooden structure having been burned in 1814. The academy was one of the oldest in the State of New Hampshire, having been incorporated in 1794 and having helped to educate many famous men.[1] Here Clifford remained as a student for three years, until 1820.

Following the custom set by other New England boys of small means and great ambitions, he obtained the direction of a small district school in one of the neighboring towns. His earnings from this source were very small, so that in order to supplement the scanty pay of the country teacher, he used his classroom in the evenings as a place for giving singing lessons. It is said that he was possessed of a fine voice, a good musical taste, and a considerable knowledge of harmony, having acquired these latter accomplishments from his father and sisters during evenings at home. In spite of such exceptional and fortunate opportunities, one must feel considerable doubt as to the value of the future justice's instruction in the vocal art. Such teaching as he imparted was, however, doubtless without great expense to the recipient.

The three years of school life at Haverhill were thus subject to many interruptions, but unflagging industry made up for absences and brought rapid progress with great mental discipline. Subsequently, one year spent at the literary institution at New Hampton, N. H., completed the young man's academic training. He had hoped to enter Dartmouth with the youths of his class and age, but to his disappointment he found himself unable to procure

[1] *History of New Hampshire*, Everett Stackpole, vol. ii., page 337.

the money for such a course. It was, therefore, with great reluctance that the possibility of a college career was surrendered. He did, however, find the means and time, in the midst of all his other occupations, to pursue the line of classical and other studies prescribed at that time by a New England college. He tried, so far as possible, to keep abreast of the reading and studying of the grade at Dartmouth in which he would have entered had his resources been sufficient.

While he was at New Hampton Institute he announced to his family his determination to read law. The choice of this profession was not an accident or a sudden decision, but the result of a fixed and settled preference. The years of preparation had been times of close and intense application. They had borne their fruit in a mind matured and in the production of practical views of life. The instruction at the academies had been supplemented by a considerable stock of general reading, so that, on the whole, young Clifford had fairly well fitted himself for the commencement of his life work. His earnest study had attracted the attention and won the interested affection of his teacher, securing for him much assistance and encouragement.

At the age of eighteen he entered the office of Josiah Quincy, a prominent lawyer of Grafton County. Mr. Quincy was probably, at that time, the leading attorney of the district. He was born in 1793 in Lenox, Mass., and settled in Rumney in 1816. Beginning life in very restricted circumstances, he had soon acquired financial success and later became the adviser for many large interests. He was several times a member of the State Legislature in both branches, and was President of the Senate. He died in Rumney in 1875. He was known by some as a hard, grasping, money-getting man, but one biographer, at least, regards his reputation as but the re-

sult of the jealousy of those who were less successful than himself.[1]

By thoroughness and application the young student soon won the respect of Mr. Quincy, who treated Mr. Clifford with the utmost kindness, making him a confidant in practice and finally intrusting him with various matters of large importance. It was without doubt owing to the interest and care shown by Mr. Quincy toward his pupil that the latter early acquired a remarkable familiarity with the customs and details of business in a law office. Also it is probable that the training under this old-fashioned counsellor, coupled with the slender means of Deacon Nathaniel, led Mr. Clifford to an early and full appreciation of the value of money.

His times of study were still broken into by the necessity for teaching in order to supplement his small income. With his accustomed assiduity, however, he applied himself to his task. At this period entrance into the bar of New Hampshire could be obtained, by one not a college graduate, only after a laborious preparation of five years. Such a course was accomplished by 1827, and in May of that year Mr. Clifford was admitted to practice in New Hampshire. It is well to consider what satisfaction the final accomplishment of a long cherished purpose must have brought to the young man. He was at last in the possession of a certificate enabling him to compete in the world with men of affairs. He had but to pick up one of the opportunities which lay about him.

The first step in his career was to decide on a place in which to settle. The choice of a location was then governed by very different considerations than at present. The outlying districts were of much greater relative prominence than they are today. The centers of population

[1] *The Bench and Bar of New Hampshire*, by C. H. Bell, Houghton, Mifflin & Co., 1894.

had not then begun to absorb the brains and trade of the State. Communication was still wholly by stage and carriage. The country was not able to obtain the satisfaction of its wants from the cities. Therefore there were many towns of considerable importance, where a fair sized trade flourished, which since, for obvious reasons, have fallen back into a dry rot.

Such a settlement was Newfield, Maine, near the New Hampshire boundary. It lies on the north bank of the Little Ossipee River, about thirty miles northwest of Portland, adjoins Limerick on the east and Parsonsfield on the north, and is divided by the river from Shapleigh on the south. To one standing on the opposite bank of the stream and looking northward, a picturesque and unusual aspect is presented. The ground rises in three successive terraces from the water's edge, till the highest is crowned with hills and peaks, some bald, some ornamented with plume-like elms, whose graceful forms stand outlined against the sky. Upon the flats or tops of each elevation are collected the separate smaller hamlets constituting the parent village. A southern exposure hastens the spring and renders the soil fruitful and productive.

In 1827, it was a thriving little place, containing several lumber mills and tanneries. By the census of 1820, it had 1147 inhabitants, and by that of 1830, 1289.[1] Business of various kinds was active, and land titles were in great confusion. Apparently there was no lawyer in the town.

Acting on the advice of Hon. Ether Shepley, then a practicing attorney of Saco, shortly to be appointed on the Supreme Bench of the State and later to receive the well-deserved honor of Chief Justice of the same court, Mr. Clifford selected Newfield as his place of residence. Before leaving the home of his father, he had provided him-

[1] Portland, Maine, *Argus*, January 17, 1831.

self with what credentials he thought necessary. Among the earliest of his papers are found the following:

This certifies that the bearer, Mr. Nathan Clifford has been a student at law in my office for the term of five years—During all of which time he has been diligent and attentive to his studies and sustained a good moral character—

Rumney, May 20, 1827.

JOSIAH QUINCY.

The undersigned being well acquainted with Mr. Nathan Clifford, a young gentleman who has recently finished his legal studies and wishes to locate himself in order to practice his profession beg leave to recommend him to the notice and esteem of those who may need his services or be able to assist him.

Mr. Clifford has ever sustained a good moral character and from many displays of his professional skill and abilities which have fallen under our observation we doubt not that he is well read in his profession and has talent sufficient to make himself eminently useful and highly respectable.

Wentworth June 2nd 1827.

THOMAS WHIPPLE, JR.
CALEB KEITH
SAMUEL BURNS

It may be of interest to the reader to know that Wentworth, N. H., is a town bounded by Rumney on the east and Orford on the west. It was incorporated by Gov. Benning Wentworth in 1766, and contains about six square miles. Rumney was chartered in 1767, so that the two villages were of practically the same age.[1] Diligent search has not disclosed the identity of the three men whose names appear at the bottom of the second certificate, though a Thomas Jefferson Whipple read law in Josiah Quincy's office, a few years later than did Mr.

[1] *History of New Hampshire*, pp. 281, 286, by John N. McClintock, Boston, B. B. Russell, 1888.

Clifford. It is possible he was the son of the signer of the reference.[1]

In 1827 the means of transportation were very meagre, and in the case of Nathan Clifford were confined to the two strong legs with which nature had amply endowed him. Family tradition tells of his long walk from Rumney to Newfield with all his worldly goods done up in a pocket handkerchief and suspended from a stick over his shoulder. Whether or not this be true, it is pleasant to speculate on the state of mind of the youth, realizing, probably, that he had good brains in his head, and knowing full well he had no money in his pocket, as he tramped his solitary way over the New Hampshire country roads, in the year of grace 1827. Had he had a true vision of the future, would he have been any happier? "The thoughts of youth are long, long thoughts," and it takes no great imagination to believe that his were very long and very practical, as hour after hour he trudged on, now resting for a bite to eat, now talking with a farmer as he passed through the more settled districts, sleeping, doubtless, at times by the roadside, and always possessed with the one determined resolve to succeed.

Upon his arrival in Newfield he went at once to the house of Captain James Ayer. The Ayers of Newfield were very numerous. Family tradition again has it that he lived in the home of Captain James Ayer, while it is known that he had an office in the house of Dr. James Ayer, the two men being distant cousins.[2] What gained the young man such ready access to the leading family of the town must be left largely to conjecture. It should, however, be noted that Captain Ayer was possessed of a very beautiful daughter, aged sixteen, at the date of Mr. Clifford's arrival in the town, and that in less than a year from the

[1] *Bench and Bar of New Hampshire*, by C. H. Bell.
[2] Dr. James Ayer, *In Memoriam*, privately printed, 1892.

advent of the stranger into the Ayer homestead, the daughter, Hannah, and Mr. Clifford were united in marriage, March 20, 1828. She was but seventeen years of age.

This wedding, the fruition of a romance so suddenly commenced, was the beginning of a joint life of helpfulness and understanding which continued for fifty-three years. Mrs. Clifford was constantly with her husband except when the cares of a young family prevented her from accompanying him. Theirs was an example of the kind of matrimonial alliance which lays the foundation of a society based upon the sacredness of home, the proper rearing of children, and the thoughtful and sincere recognition of the responsibilities which such a union entails.

By an act of the legislature of the State of Maine passed February 25, 1825, any person who had been licensed to practice law in the highest court of any other State, where the qualifications required for admission were equal to her own, was entitled to apply for membership in the bar of the former. As New Hampshire came under such a description, Mr. Clifford was enabled at once to claim the right of entrance into the legal fraternity of his adopted home. In consequence of early acquired habits of reflective study and a strong memory of remarkable accuracy, the young lawyer had brought with him into his newly chosen field of endeavor a substantial fund of knowledge, together with a capacity trained to apply this learning to the questions arising out of the affairs of men. Therefore he made his way to the confidence and esteem of the people among whom he lived, soon finding himself engaged in a fair sized and increasing business.

His marriage, doubtless, helped him toward the acquisition of a respectable practice. His father-in-law, Captain Ayer, was one of the leading citizens of the town. Elisha Ayer, father of Captain Ayer, had purchased from various owners a large tract on both sides of the Little Ossipee,

and had thus become the chief landed proprietor in that section. The son was, therefore, a person of great influence and high position. The care and management of a property of such dimensions must have rendered the advice and efforts of an attorney most necessary. It is easy to imagine that many important family matters were turned over to the son-in-law. Such a nucleus brought him other clients, and the presence among the Clifford papers of a number of old deeds is evidence of a large real estate practice.

Mr. Clifford was early led toward a political life. His upbringing had turned him toward the party of the people rather than that of the Federalists or their successors. Therefore it is not surprising that in the campaign of 1828 in which Andrew Jackson ran for the presidency, Mr. Clifford should have been an ardent Jackson supporter. He must have been a most convincing advocate, because, although at the time of his coming to Newfield in 1827 there were scarcely a score of Democrats in the town, he was, in 1830, elected to the legislature on the Democratic ticket by a large majority. Such success should be considered along with the fact that in the Maine election of 1828, Jackson received only 13,927 electoral votes against 20,773, for Adams.[1]

It is said that Captain Ayer, who apparently was a conservative, tendered his son-in-law a position on the legislative ticket of the older party, which offer was refused. This, however, cannot be verified. It is, nevertheless, a story indicative of the young man's character. He had now reached a point in life where the first difficulties had been overcome. He had educated himself in his chosen profession. He had felt himself in possession of sufficient means to warrant the assumption of the responsibilities of

[1] See Files of Portland, Me., *Eastern Argus* of this period, especially Jan. 9, 1829.

a family. He had become respected and esteemed in the community of his adoption, and now he dared to tell his fellow townsmen that the majority of them were following the wrong political standard bearer; that the future of the country demanded the government of the party of youth and fresh ideals, that of the people rather than of the wealthier, conservative class; dared, to the extent of rejecting the political preferment proffered by one of the leaders of the already dying, though still hearty, aristocracy, and one who was united to him in the relationship of father-in-law.

The selection of his political affiliation was like all other important steps taken by Mr. Clifford during his lifetime. It was irrevocable. A choice once made, after long deliberation, was final. Through all the vicissitudes of the career of the Democratic Party for the next sixty years, Mr. Clifford was its loyal and unwavering supporter. He believed that the good of the nation was best served by his allegiance to the faith of his youth. To this he was always true. Whatever might be said of his judgment, no question can ever be raised as to the absolute sincerity of his belief or the honesty of his convictions.

CHAPTER II

Representative to Legislature

In order to understand the political situation at the date of Mr. Clifford's election to the state legislature, one should refresh one's recollection with a brief survey of the trend for the forty years preceding. It will then be understood that there were at this period in the embryonic stage those forces which were to govern the history of political parties in America for the next fifty years. While it is difficult to assign any particular time to the beginning of tendencies, still it is fairly accurate to say that during the twenties there began to show above the horizon the threatening clouds of secession and nullification, which though dispelled for brief intervals, continued to darken the sky till it was cleared finally by the Civil War.

It will be remembered that the Federalist Party had gone down to signal defeat and virtual death after the one term of John Adams in the presidential chair. Various causes had contributed to this event, but the chief reason was, doubtless, the fact that the adoption of the Constitution had been the work of a minority of the people. The best brains, the wealth and the aristocracy of the land, forming a party which believed in strong central government (when they were in office) had by sheer firmness of purpose and no little manipulation, forced their ideas upon a somewhat unwilling country.[1] This group, or the Federalists as they became to be called, im-

[1] *Life of John Marshall* by Albert J. Beveridge, vol. i., pages 356 and 391. See also account of Adoption of Constitution in vol. i. of same.

mediately assumed the reins of power which the ratification of their designs had placed in their hands. Their aim was to preserve the country against the evils of divided sovereignty such as had existed since the Declaration of Independence. The central authority must be supreme. They had very little sympathy with the rank and file except in the way of ruling them and doing it well. Thus they immediately came into opposition to those who liked as little restraint as possible and with the theory that the United States was merely a confederation, each member of which was sovereign.

Jefferson, seeing the opportunity for building out of these elements of discontent a party of the common people as distinguished from the gentility, early began to construct the machine which was soon to make him the most powerful man in America. Taking advantage of all the weaknesses of his opponents, using every body of men which for any reason was against the "old régime," combining the doctrine of states' rights with his natural theoretical love of individual freedom, he wielded an influence which reached to all parts of the country and extended to the most remote settlements.[1] The Sage of Monticello was indeed the idol of the masses. Thus came about the fall of the Federalists.

Their principles, however, survived. For the next ninety years, the beliefs of men as to the rights and powers of the national and state governments in their relation to each other were to form the bases for the platforms of parties. There was always to be a group favoring a wide extension of the authority of the former, and opposed to it a faction advocating what came to be called strict construction of the Constitution. Whatever issue of importance might arise at any election, it could be traced back

[1] *Thomas Jefferson* by John T. Morse, Jr., pages 115–117, American Statesmen Series.

to this divergence of opinion. Whether it were slavery, the tariff, the bank or the distribution of public monies, we see the champions aligning themselves according to their faith in the central as distinguished from local supremacy.

But in the last analysis the general government must be stronger than that of its component parts, if it is to succeed. There can be but one head. So one sees in American history the curious phenomena of parties elected to power on a platform of peoples' rights and individual freedom (which was but another way of expressing local or state liberty), gradually falling away from this theory, till a fresh cry of despotism is raised, and a full tide of democracy wafts into control a different set of rulers. To maintain the proper balance between these two opposing beliefs is, and always has been, the task of the American statesman.

Thus it happened that through the administration of Madison and Monroe, the trend of policy, silent and often unconscious, was toward that of the former aristocratic government. Power makes for conservatism, and whatever the avowed purpose of a party, it is sure to come to a conviction that its aims, being right, must be carried out.

When we arrive at the election of John Quincy Adams we find ourselves confronted by a true Federalist under a different name.[1] The times were ripe for another overturn. The country had been growing. The great additions of territory had more than doubled the area of the United States. Vast tracts of unoccupied land called to the adventurous to improve it. Gradually but irresistibly the frontier crept farther and farther from the Atlantic. Emigration increased, yet the new lands absorbed all the influx, while calling for more. The West was becoming a factor. Its inhabitants were of the sort who had little in

[1] *John Quincy Adams*, by John T. Morse, Jr., page 193.

common with the traditions of the past. The original thirteen colonies had thrown off the yoke of the mother country, but still there was a great veneration in the eastern and older states for the customs of the old world. None of this feeling existed in the more recently acquired territories. The surroundings of the energetic pioneer settlers breathed of things fresh. Forcefulness, individual initiative, aversion to restraint of any kind cried out for change.[1]

The call of the times was answered in the person of Jackson. He had run against Adams in 1824, but had suffered defeat in the House of Representatives, though receiving the greatest number of electoral votes. In 1828 he was swept into office on a wave of popular feeling. His election marks the beginning of a new epoch of American history, just as that of Jefferson had signified the end of Federalist rule.

Parts of the eastern seaboard were undergoing a development into a manufacturing district. The embargo and kindred legislation and the war of 1812 had closed all our ports to foreign trade. Populations which had been largely dependent on Europe for their supplies of certain articles were faced with the situation of providing for themselves. The shipping of New England lay idle at the wharves. Not only could the Yankee skipper no longer sail the seas, but the money of the ship owners was lying inactive. The two elements necessary for the establishment of any business existed side by side; the need of the goods and the idle capital. The enterprising merchant began to embark his surplus funds in industrial experiments.[2] Gradually the cry arose that the United States must be economically self sufficient in order to avoid a repetition of the suffering and distress of past years. At first there was no fear of over-

[1] Wilson, *History of the American People*, vol. iii., page 246.
[2] *Ibid.*, page 196.

sea competition. There was no importation. When European peace returned, however, and our harbors again became open to the commerce of the world, the circumstances of youthful American industries were gradually changed. The older established factories of other countries could and would under-sell them in the home market. Thus came the desire for duties.

Obviously, if one kind of business was to be aided in this way the others should be. The requests for protection of youthful industry became unlimited. Congress was faced with a new problem, of which the only solution seemed to be to grant all demands. So in a comparatively short space of time the law of 1828 was enacted, known as the "Tariff of Abominations." Manufacturing, however, was confined to the northern communities. Therefore, the tariff, being a duty on fabricated articles, was not popular at the South. Southern statesmen felt that it did not benefit their states, but was, on the contrary, a hardship to them, in that it caused them to pay higher prices for goods they imported or bought in the North, and which they could not produce themselves. As a result, came the threats of South Carolina, subsequently to be carried out in her nullification ordinances.

It would seem that Maine's interest was rather against any restrictions on foreign commerce. She was not the home of manufacturing centers as was Massachusetts and some of the other New England States. The tariff would do her little good. She had no industries which would be protected by a prevention of or a restraint on importation, while, on the other hand, her vast expanse of coast line and her consequent interest in shipping, would naturally lead her toward a policy which would insure the greatest oversea trade. The "Tariff of Abominations" had doubled the duty on molasses, thus striking a heavy blow at New England prosperity. Maine lumber, Maine ves-

sels, and all business dependent on them were seriously affected.[1]

It is interesting to consider how closely the question of the tariff was bound up with slavery. The two must be treated as inseparable, if one is to get a correct view of the events of this period. The fact that negro servitude existed in the South prevented the introduction of manufacturing into that territory for the reason that such industries are worked by paid labor which will not come into a district where slaves are employed.[2] Therefore, the population of the Southern States was not increasing, while that of their free neighbors was growing rapidly.

The South was becoming alarmed over the expansion of the North as compared with her own apparent inability to enlarge her representation in Congress. She looked forward to the day when she would be hopelessly outvoted in the more popular branch of Congress.[3] The only way that this result could be counterbalanced was to insure the admission into the Union of more slave states in order to keep up her membership in the Senate. This became her fixed purpose.

The Missouri Compromise had come as the result of such determination.[4] It is well to remember that the act was a Southern measure. The fact that Maine was admitted as a free state was but a side issue. The South gave up an unreasonable opposition in return for the admission of Missouri as a slave holding community and the recognition of the possibility of others south of the line 36° 30″.

By this time the custom of owning negroes had come

[1] Hatch, *History of Maine*, vol. i., pages 193–194.

[2] Wilson, *History of American People*, vol. iii., page 252.

[3] Rhodes, *History of United States, from the Compromise of 1850*, vol. i., page 30.

[4] *Ibid*, page 37.

to be considered by its advocates a necessary part of the social order. The view, that it would be finally abolished,[1] formerly held by many Southern leaders, seemed to have passed away. The institution was often spoken of as one which met with divine favor, and allusions to the Bible in its support were common.[2] On the other hand, abolition societies had been formed, but had, as yet, exercised no great power. The general attitude was one of a temporary tolerance of the practice. The crucial moment had not yet arrived.

The question of the northeastern boundary of the United States was one which had been hanging undecided ever since the end of the War of Independence. Without burdening the reader with an account of the many attempts to reach an agreement upon this most troublesome problem, let it be remembered that at the present stage of the controversy, the English claimed a line considerably farther south and a little more to the east, than that conceded by the Americans.

The eastern limits of the country as defined by the treaty of 1783 was "a line to be drawn along the middle of the river St. Croix from its mouth in the Bay of Fundy to its source, and from its source directly north to the aforesaid Highlands, which divide the rivers that fall into the Atlantic Ocean from those which fall into the river St. Lawrence." The northern side ran westerly along these "highlands."[3] England and the United States had at last agreed on what was the St. Croix River and had located its "source," but their divergent claims started from different opinions as to the location of the "highlands" referred to, the American contention being that the "line" as described

[1] Rhodes, vol. i., page 19.

[2] *American History told by Contemporaries*, by Hart, vol. iii., page 597 *et seq.*

[3] *Select Documents of United States History*, McDonald, page 18.

by that instrument started at the rise of the river and ran north to the hills on the north slope of which were the head waters of the river Metis which enters the St. Lawrence. The English insisted that the "highlands" named were the ridge at Mars Hill some hundred miles further south.[1] This dispute had been referred to the King of the Netherlands for settlement and was still undecided by him.

On January 10, 1831, immediately after the opening of the session of the legislature, the King of the Netherlands published his conclusions as to the rights of the parties. The grounds of the decision surprised every one. The award was plainly a compromise. No attempt was made therein to determine the location of the places mentioned in the treaty, and an arbitrary line of convenience was drawn which divided the disputed territory in two parts. The news did not reach America till some weeks later, however, and it was not till March 25, 1831, that Governor Smith, in a message to the legislature, announced his reception of a copy and translation of the judgment of the arbiter.[2]

The question of the rechartering of the United States Bank was coming to the fore. This institution had first been created in 1791 for twenty years. Jefferson and his party had allowed the charter to lapse in 1811, but as Mr. Wilson forcefully says, "finding the exigencies of finance powerful solvents of their scruples," they had renewed it in 1816 for twenty years. The constitutionality of the law incorporating the body had been passed on in the case of McCulloch vs. Maryland, and a decision had been rendered in its favor. The capital stock was $35,000,000 of which $11,000,000 was held by the Federal Treasury.

[1] McMaster, *History of the People of the United States*, vol. v., pages 467–473. See also Burrage.

[2] Burrage, page 168.

Five of the twenty-five directors were appointed by the President of the United States. It was the depositary of the public funds and enjoyed their use without interest. It had the right to issue notes to the full par value of the capital stock, and they were receivable by the United States as cash for all debts. The bank had paid $1,500,000 for its organization, and had agreed to negotiate government loans without interest. All its notes were redeemable in specie.[1]

The boundary dispute, phases of the slavery agitation, and the United States Bank question, were to be debated in the Maine legislature during Mr. Clifford's membership in that body. While all these matters were of national importance, the first was also of great local interest. The two latter could come up only collaterally, in order to give different leaders a chance to air their views on federal policies, and bring into line some of their wavering associates. Political groups were not yet formed on the firm lines which later marked their division, but their members voted in changing combinations as the different issues arose. Individual opinion had not yet submerged itself within the narrow limits of partisan belief, and the captains of the various factions were constantly on the alert to catch at opportunities to bring any uncertain brothers into the protective field of the party's discipline.

The legislature in 1831 met in Portland. It was the last session to be held there. The body was for the first time Democratic in both branches. Robert P. Dunlap was elected president of the Senate; John Ruggles,[2] Speaker of the House and Samuel E. Smith was Governor.[3] The Portland *Argus* of that period is strong in its praises of the speed with which the organization was accomplished. Mr.

[1] Wilson, *History of American People*, vol. iv., page 43.
[2] United States Senator, 1835–41.
[3] Portland *Argus*, January 7, 1831.

Clifford was placed on the committee of Bills on Third Reading and Literary Institutions.[1]

The first important speech recorded as being made by him was that in favor of the resolve to make regular the acts of the previous legislature.[2] The reason for the measure had its origin in the bitter party feeling engendered at the session of 1830. Great difficulty had been experienced in organizing the Senate of that year because of the equal division of its members among the two opposing factions. The Democrats had characterized the attitude of the "Federalists" as one of unconstitutional obstruction. The House had unseated a member in the face of loud protests of the former.[3] The action of the committee which counted the votes for governor was assailed by them as unfair and unlawful. If the accusations thus made were true there had been an acting legislature and executive who had not been the choice of the majority of the voters of the state, and had not been properly elected to their respective offices. Laws passed by such an assembly and signed under these conditions could have no legal effect.

The argument in favor of the enactment was that inasmuch as there was a grave question as to the force of the statutes of 1830, they should at once be given the full sanction of a body to which no stigma of irregularity attached. It was perhaps a necessary measure. It was certainly an exceptionally good opportunity to "play politics" in a harmless way.

On March 8th Mr. Clifford spoke in favor of raising the bank tax from one-half of one per cent to one per cent.[4] The opponents of the measure argued that its passage would tend to drive capital out of the state. Mr. Clifford

[1] Portland *Argus*, January 11, 1831.
[2] *Ibid.*, February 11, 1831. [3] *Ibid*, January 7, 1831.
[4] See Files of Portland *Argus*, March 8, 1831.

said that he did not think that such a result would follow the enactment of the bill, otherwise he would not vote for it. He stated his belief that taxation always bore hardest on the poor, inasmuch as everything which they possess is in sight, whereas a large part of the property of the wealthy is intangible and unknown to the authorities, and therefore not reached. Here was an opportunity to levy on those best able to pay. In reply to the declaration that one-third of the bank stock held in Maine was owned by widows and orphans, he contended that any individuals owning such shares were usually well-to-do and so should be assessed, and drew a distinction between them and the similar dependents of needy farmers owning a cow and a few pigs, whose belongings were always pounced upon without creating any sympathy on the part of those against this proposed law. He said that as long as bank stock was at par and higher, the argument that these assets had shrunken in value had no weight with him, particularly as the worth of everything had decreased, that of one no more than of another.

On March 22d, Mr. Clifford moved to reconsider the resolve in relation to the abolition of negro servitude in the District of Columbia. He said he held this to be a very singular act to be passed by the legislature of the State of Maine.[1] Here we see the beginning of Mr. Clifford's future attitude on this all absorbing subject. He was not a believer in the practice, nor was he an advocate of secession. He did, however, feel very strongly that neither the North nor the Federal Government had any right to dictate as to whether blacks could be owned in certain parts of the country. In other words, he considered that slavery was a local institution, the regulation of which should be left to the different states themselves. He also believed it would, in time, bring about its own death, and he

[1] See Files of Portland, Maine, *Argus*, March 25, 1831.

strongly opposed any sectional agitation looking toward putting an end to the custom. He maintained that such continued stirring up of the question was the cause rather than the effect of the treasonable doctrines of the South.

While it is impossible to go in detail into the different matters debated by Mr. Clifford during the session of 1831, it should be noted that as the weeks went by he became increasingly active in all discussions of the House, fearlessly expressing his views on such of them as seemed of importance to him. He was a representative of a rural community. The legislation relating to the country, and the effect of laws on such districts, as distinguished from the cities, were of particular interest to him. It is also probable that the measures concerning the larger centers of population did not appeal to him with the same force as those regarding conditions with which he was more familiar. It is doubtful whether he had the fullest sympathy with the necessary adjuncts of urban life, such as banks and other large financial institutions.

The proximity of Portland to Newfield enabled Mr. Clifford to go home frequently during the winter. This accounts for the lack of letters to his wife, only one being found among his papers. It was apparently written shortly after a return from a visit to his family.

PORTLAND March 20 1831

DEAR WIFE.

I arrived at Portland about half past seven in the evening and next day attended the Legislature in the forenoon but have since been confined to my room under the care of a physician. I caught a violent cold. Have had the ague in my face with a violent *toothache*. Have had one tooth extracted and another *filled* you would not have known me for two days so swollen was my face. I am better and shall be able to attend the Legislature on Mon-

day. I hope I shall be at home next week on Saturday but [it] is uncertain. I have not carried your Bonnet to the millinerys yet. It is said Mrs. Frothingham is the best. The valuation committee have not reported and it is uncertain when they will. Many things to be done yet

Yours

N. CLIFFORD

The legislature in 1832 met for the first time in Augusta. Benjamin White was chosen speaker. Mr. Clifford was placed on the important committee on Contested Elections. He continued his membership on that on Literary Institutions.[1]

AUGUSTA Jan'y 4, 1832.

DEAR WIFE

I tarried in Portland until Monday morning at 8 o'clock when I started for Augusta & arrived safe at 6 in the evening. I have engaged my board at Mr. Snell's with James W. Bradbury[2] of this place. Very good accommodation. Mr. White of Monmouth is speaker. I am well and happy but very desirous to hear from you & the children. Write me by return mail. I am interrupted and must close.

yours truly

NATHAN CLIFFORD.

During the session he came into frequent conflict with Hon. William Pitt Fessenden.[3] The latter was of the party opposed to Mr. Clifford, who called themselves National Republicans or Whigs. He was one of the leaders of the anti-Jackson element, and thus it was natural that the two men should often meet in the different debates.

Probably the most important speech of Mr. Clifford

[1] Portland *Argus*, January 13, 17, 1832.

[2] United States Senator, 1847–53, *Maine Year Book*, 1920–21, page 211.

[3] United States Senator, 1854–59, 1859–64, *Maine Year Book*, 1920–21, page 211.

throughout this winter was that against the rechartering of the United States Bank. On February 6,[1] he introduced the following resolutions:

"Whereas the Bank of United States has applied to Congress for a renewal of its charter, and whereas it is the sentiment of both branches of the legislature that its renewal would endanger the best interests of the country, therefore,

"Resolved, that our Senators in Congress be instructed and our Representatives be requested to vote against said renewal.

"Resolved, that the Secretary of State be directed forthwith to transmit to each of our Senators and Representatives in Congress, a copy of the foregoing preamble and resolutions."

Mr. Clifford's remarks on this question are given as they are reported in the Portland Argus of February 24, 1832. After a few lines of introduction, he referred to the custom, common among public men, of ascertaining the popular sentiment upon measures of doubtful expediency, as a reason why the President in his message to both Houses of Congress in December, 1829, had directed the attention of the American people to the subject of the renewal of the charter of the Bank of the United States. He then asked the indulgence of the House while he adverted to the circumstances under which the chief executive had asked for the opinion of his constituents. This gave him an opportunity to enter upon an encomium of Jackson, and to mention the unjustifiable attacks which had been made upon him. He then touched upon the propriety of the passage of resolutions by the legislature.

He thought no impartial man would gainsay the right of discussing and examining the question. He would not deny the necessity of a Bank, neither would he recommend

[1] Portland *Argus*.

one in all respects like that suggested by the President in his message, but there were several insuperable objections in his mind to a renewal of the present charter of the corporation now in existence.

He neither admitted nor contradicted the constitutionality of the institution, but contended it was a corporation of very extensive resources without suitable and proper restrictions. It was capable of exerting a tremendous political influence, which if brought to bear on the freedom of elections, might endanger the permanency of our free institutions. He contended it was beyond the control of the government which created it, extending its operations through all parts of the United States, yet all centering to one point. He added:

"Its continuance after the expiration of the present charter will enhance, to an alarming degree the value of its stock, probably to the amount of $17,000,000. As the value of the stock is raised, the inducements to become purchasers will be increased, the obvious tendency of which is, to throw it more exclusively into the hands of a smaller number of individuals, and those of the wealthy class. Experience has shown that the number of stockholders has been gradually but constantly diminishing since the charter was granted. At that time the number was more than 30,000; the present number is less than 4,000; while the available resources of the Bank have increased to an astonishing degree. It has at its control at this moment $100,000,000 of the property of the Union."

Again, it was a dangerous and unjustifiable monopoly. The government of the United States was pledged to grant to no other individual or corporation a similar charter during the existence of the present Bank. This was contrary to the genius of our institutions. The contract of the government would end in the year 1836. The charter was

accepted on that condition. The faith of the nation would then be redeemed.

"Our law abhors entailments and the accumulation of large family estates. All the property of the country, in the course of twenty years, passes under the distributive power of the Courts of Probate. But, Sir, these corporations fear not the hand of death. The changes of time which scatter the property of private individuals, have no terrors for such corporations. The vacant place of a deceased stockholder is immediately supplied from among the living, and the corporation moves along, rapidly increasing in wealth and power."

"It has been the policy of our government to divide its honors and scatter its blessings, and the means of acquiring wealth equally among all its citizens. Why should the stockholders of the present Bank enjoy longer the exclusive right of banking under the United States? When the charter expires the generation which granted it will have passed away." . . .

"But, Sir, all writers upon this subject agree in one point, that the renewal of the charter will enhance the value of the stock which will increase the power and dangerous influence of the Bank. . . . If the strong arm of the people is unable to arrest its progress *now*, it is in vain to think that hereafter any earthly power within the constitutional means of the government will ever be able to overthrow it."

He maintained that in its operation it had a direct tendency to break down the barriers against the encroachment of the general government upon the prestige and influence of the states: that it had authority to establish an indefinite number of branches in the several states without their consent in defiance of their authority. This, he affirmed, was a usurpation of the rights and privileges of the citizens of a commonwealth which never ought to be counte-

nanced, its obvious tendency being to cause collision between the general and the state governments. He continued:

"The charter of this bank is irreconcilable with a just regard to the sovereignty of the states in another respect. It has the power to destroy the local Banks. My authority for this assertion is the President of the Bank himself. In answer to a question propounded to him by a Committee of Congress to wit: 'Has the Bank ever oppressed any of the State Banks?' The President, Mr. Biddle, answered, 'It never has, although there are very few which might not have been destroyed by an exertion of the power of the Bank.' ". . . "What guarantee have we that the Bank will spare its prey in the future? The reason for this lenient course will not exist when the charter shall be renewed. How do we know, Sir, that this power may not be exercised when the interest of the stockholders may require it? But, Sir, I have another objection. By the terms of the charter according to the decision of the Supreme Court of the United States, the property invested in its branches is not subject to state taxation. We tax all the productive property of our citizens for the support of government and for the education of youth. But this corporation has authority without our consent to establish its branches in every village in the state, to take and hold property, and to supply a circulating medium on terms which are not granted to our citizens, and yet, Sir, we have no right to lay a tax upon such property for any purpose whatever. Again, Sir, the public is not properly secured against the failure and bad management of the institution. The consequences of this failure would be immense; and the loss to the public almost incalculable; and yet the stockholders are not liable in their individual capacity in any respect. All the security which the public has against such disastrous consequences, is the assets of the

corporation. The stockholders of the Banks of this state are liable in their private capacity to the amount of their stock *after the failure of their Bank.*

"Another objection, Sir, to the renewal of the charter is that eight millions and a half of the stock of the bank is owned by foreigners, and no restriction which can be annexed to the present charter would divest them of the interest already acquired. Such restriction would impair vested rights."

He considered this to be an insuperable objection which Congress could not remove except by erecting a new corporation with the condition that its stock should not be transferable to the subjects of a foreign power. If the charter was renewed, they would legislate into the pockets of foreigners nearly three millions of dollars, the enhanced value of their stock. He continued:

"Under the present charter the whole stock may be transferred to foreigners except $2,000, and the amount owned by the United States, without impeding the operation of the corporation. Thus, Sir, we should have among us, in war or in peace, a foreign influence beyond the control of the government, and one which might endanger the liberties of the people. Sir, when a foreign power shall own the stock of this bank, with all its party machinery scattered throughout these United States, our liberties will be at an end.

"No one can safely deny the existence of all these evils.

"A charter containing such principles, in the hands of unprincipled men, might exert a very corrupting influence and lead to very disastrous consequences. It is the part of wisdom to provide against such evils. No matter whether the Bank is well conducted or not, we ought to have ample security that it shall, under all circumstances, continue to be well conducted. . . .

"Now, Sir, what is the justification of continuing a

charter containing so many objectionable features. Its friends say that it has done much good in restoring a sound currency and in compelling the State Banks to resume specie payments, which had been suspended. Whatever benefits in the future are to be derived from the present Bank, may also be secured to the community in a new corporation divested of many of the latitudinarian principles contained in the present charter."

He denied that this Bank alone had been instrumental in rehabilitating the currency of the country. No doubt it had exerted a remote influence. He thought it was necessary, in order to obtain a proper understanding of this subject, to look behind the period when the Bank of the United States was chartered, for the removal of the causes which had embarrassed the fiscal concerns of the government.

"The nation had scarcely recovered from the embarrassments of the Revolutionary War, when our negotiations with foreign countries were again interrupted, and after repeated aggressions on the part of Great Britain in claiming the right of searching our vessels and impressing our seamen, in 1812 war was again declared with that great naval power.

"This, Sir, was the second War of Independence. At this period the expenses of the nation were immense, exceeding eighty millions of dollars, and much beyond the available resources of the people. Our commerce was crippled, and the avenues for acquiring wealth were closed. Public confidence in the stability of the government was shaken, combinations were formed to effect a dissolution of the union. This will be denied, Sir, but I have authority that such was the case. In the latter part of 1814, a Treaty of Peace was made. Then, Sir, the state of the country assumed a different aspect. Party spirit was smothered. All embarrassing restrictions were taken off

our commerce. Our negotiations with foreign countries were renewed and placed on a better basis; ships were built, public confidence was restored and all the machinery of an enterprising and industrious people successfully put in motion. The State Banks underwent legislative revision, their exorbitant issues were checked by suitable restrictions. Old charters were revived and new ones granted, and in fact, every measure adopted to avert the further progress of the calamities which a distracted state of the country had produced."

He contended that these among other causes had contributed largely to a restoration of the currency of the nation.

In conclusion, he said, "If we must have a Bank," and he would not deny that such an institution was a convenient medium for the collection of the revenue, "let us have a new corporation, composed of the citizens of this country, within the control of the people, the legitimate source of all power and free from the obnoxious features of the existing charter of the United States Bank. The stock should not be transferable to the subjects of a foreign power, and a violation of this salutary provision should be declared an indictable offense, accompanied with a forfeiture of stock so transferred. The stock and other property of the branches, at least, ought to be liable to state taxation. The states ought to have the authority to preclude the establishment of branches within their limits, without their consent, and the stockholders ought to be made liable in their private capacity to the amount of their stock."

This speech of Mr. Clifford was answered by Mr. Fessenden in a very able argument of considerable length.[1] After admitting that his remarks would probably have no effect on a legislature whose minds were already made up on the

[1] Portland *Advertiser*, February 28, 1832.

question at issue, he proceeded to state his reasons against the resolution. He commenced by saying that the private and personal affairs of Andrew Jackson had nothing to do with the rechartering of the United States Bank. He added that inasmuch as there was no evidence of abuse of its powers, he did not see any reason for believing that it would change its policy in the future. He saw no force in Mr. Clifford's contention as to the entailment of privileges upon a certain class of individuals because a stockholder could sell his stock at any time, and the possession of shares by a man to-day, did not mean that the same person would own them to-morrow. The distributing function of the Courts of Probate applies equally to all kinds of property. As to the exclusive right of banking under the United States law, he said it was well known that no group of men would have hazarded their assets in such an undertaking at the time of the incorporation unless this permission had been given them.

He saw no harm in the fact that an extension of the charter would enhance the value of the stock, inasmuch as the United States was the largest owner thereof, and all citizens would thus benefit by the increased value of the government's holdings. He thought it a very advantageous circumstance that foreign capital had come in to aid in building up our new country. If it were to be true that when a prolongation of the present privileges had expired it would be impossible to refuse to renew again, it would be only because the bank had become so necessary that all citizens demanded its continuance, or because its directors had been able to perpetrate a fraud on the whole electorate by imbuing them with a false idea of the importance of the institution. For his part he believed the voters to be too intelligent to be the victims of such mistake. Nor did he fear that its officers would be so stupid as to establish branches in any community where the need was not clearly

manifested. He held the opinion that the liability of the stockholders was sufficient under the circumstances. He said that he considered Mr. Clifford had confused the meaning of the word "currency" and "finances." Mr. Clifford's arguments relating to the causes which had aided in producing the present prosperous state of the country related to the rehabilitation of its financial condition, and it was to the Bank alone that was to be ascribed the improvement in the currency.

The following letter to Mrs. Clifford refers to the debate with Mr. Fessenden on this resolution and to other matters on which the two men had been at variance. The phase "teem with scurrility" seems rather stronger than the comments in the *Advertiser* would warrant and must be set down to the heat of conflict. References to Mr. Clifford as a gentleman who seems "to move foremost in whatever measure can best demonstrate devotion to the hero and his beloved Martin," and as one who "responds" to the hero's call, are the limit to which this "scurrility" attains.

AUGUSTA Feb 20, 1832

DEAR HANNAH,

Another week has rolled away & the prospect of closing the Session has not brightened much although a general determination is manifested among the members to wind up the business in this month if possible, yet my fears are that we shall not be able to do so.

You will see by the newspapers that my resolutions against rechartering the United States Bank have made some noise. As far as the public sentiment has been ascertained a large portion of the community approve my course. From the opposition I have nothing to expect but abuse & calumny nor do I wish anything else. When federal Newspapers praise me I shall begin to distrust my attachment to free principles. The columns of the old

Portland *Advertiser* teem with scurrility in regard to myself & others of the Democratic party. It moves me not. I rather court it. Wm. P. Fessenden is the supposed author of much which appears in that paper against me. I have had the pleasure in thwarting that Gent. in nearly every project which he has started during the Session & hope to have the pleasure of defeating him yet again. The apportionment Bill is not yet received from Congress. If we had that we could close this week. If it is not rec'd we have not yet determined what is best to be done. I shall write in season for James[1] or Elisha[2] to meet me at Standish or Waterboro to one of which places I shall come in the stage. Except when immersed in business I am really homesick, never so much so in my life. Very little to amuse here except occasional parties & then I meet all strangers. These sports have no charm for me. Home is home though ever so homely. I can spend a fortnight here very comfortably after which I should much prefer home. I wrote your mother a few days since & requested Elisha and Jane[3] to write but I have not heard from either of them. Does Charles[4] go to school & the other boy what do you intend to call the little fellow?[5] I want to see him. You must not forget Nancy.[6] She is my babe yet. Have you wood enough, if not James will see to have some hauled. Tell James to write a long letter all about what is going on. *Any slanders?* You must not be lonely. The time will soon pass away. Have you heard from Rumney this winter. I have not nor have I written. Have not had time.

My health is pretty good. I have to work hard,

[1] James Ayer, elder brother of Mrs. Clifford, born 1805.
[2] Elisha Ayer, elder brother of Mrs. Clifford, born 1808.
[3] Jane Ayer, younger sister of Mrs. Clifford, born 1817.
[4] Charles Edward Clifford, eldest son of the Judge, born 1828.
[5] Nathan J. Clifford, second son, born January 12, 1832.
[6] Nancy Ayer Clifford, second child, born 1830, married E. L. Cummings.

perhaps do more than any member in either branch. I am always in my seat during the session & in the interval on some committee or other all the time.

I have attended meeting nearly every Sabbath. I have heard Mr. Tappan, Mr. Putnam, Mr. Thurston, Mr. Morris, Mr. Knowlton & some others.[1] I suppose you have seen my bank speech. It is only a sketch. I spoke almost a half day.

Ask James to write about my court business. I feel some uneasiness about it.

Yours Respectfully
NATHAN CLIFFORD

In his address to the Legislature of 1832, Governor Smith again spoke of the New England boundary question, and this part of his message was referred to the joint standing committee composed of John L. Meguier, T. Boutelle, William Emerson, Ruel Williams, Jeremiah O'Brien, Nathan Clifford, Joseph M. Gerrish, John D. McCrate Charles Dummer, James Steele and Charles Jarvis.[2] Mr. William Pitt Fessenden, in writing to a friend, said he feared that this delegation would not bring in a document which would advocate "strong measures," though he hoped that his own views would be adopted. He expected opposition to his ideas from the few who had doubts how these "strong measures" would affect the prospects of the Jacksonians.[3]

It seems that the apprehensions of Mr. Fessenden were unfounded, inasmuch as the report of the committee was against the acceptance of the award of the King of the Netherlands, and urged the appointment of a competent

[1] Preachers in Augusta, Maine. They belonged to different denominations.

[2] Burrage, *Maine in the New England Boundary Controversy*, page 192, note.

[3] *Ibid.*, page 191.

agent[1] to carry to the President an expression of their feelings. The legislature having approved the resolution, the Governor appointed Judge William Pitt Preble[2] who immediately repaired to Washington, and after conference with the President, the Maine delegation in Congress, the Senate Committee on Foreign Relations and others, brought back a suggestion that Maine, for an indemnity, should cede to the United States her claim to and jurisdiction over the territory northerly and easterly of the line drawn by the arbiter.

The substance of Judge Preble's opinions was referred by the Governor to the Legislature, and each branch in secret session, appointed a committee to consider the same. From the House of Representatives Clifford, as chairman, Gerrish, McCrate, Williams, Steele, Jarvis, O'Brien, Brownson, Knowlton and Miller were chosen.[3] As a result the following resolution was adopted:

"That upon the appointment, by the President of the United States, of a person or persons to enter into negotiations with this State for the relinquishment, by this State to the United States, of her claim to said territory and for the cession of the jurisdiction thereof, on the one part; and for an ample indemnity therefor, on the other part, and notice thereof being communicated to the Governor, the Governor, with advice of council, be and he is hereby authorized and requested to appoint three Commissioners on the part and in behalf of this State, to treat with such person or persons, so appointed by the President, on the subject aforesaid; and any agreement or treaty, to be made in pursuance of this resolve, is to be submitted to the legislature of Maine for approval or rejection; and until such

[1] Burrage, page 192.

[2] Associate Justice, Supreme Judicial Court of Maine, 1820–1828, *Maine Register*, 1920–21, page 209; Burrage, page 193.

[3] Burrage, pages 194–199.

agreement or treaty be so submitted to, and approved by, the Legislature of Maine, nothing herein contained shall be construed, in any way, as implying the assent of this State to the line of boundary recommended by the arbiter, or to the right of the general Government to adopt or sanction that line instead of the line described in the treaty of 1783."[1]

It was also urged that the governor be requested forthwith to give notice of this action to the agent of the State of Maine at Washington. The recommendations of the committee[2] were adopted only after several attempts at amendment.

It seems that the characteristic of continuing in session longer than expected is not confined to present day legislatures. The custom apparently dates back to 1832, at least, as is evident from Mr. Clifford's correspondence with his wife.

AUGUSTA Feb. 27, 1832.

DEAR WIFE

I am still at Augusta and cannot say when I shall return. We intend to adjourn Saturday but that is not definitely agreed upon. When the time for adjournment is agreed upon I shall write for some one to meet me at Swetts,[3] to which place I shall come in the stage.

We have an immense amount of business of a private nature. The North Eastern boundary lines will continue to take up a great deal of my time.

You must be contented & I shall come as soon as possible. I am extremely desirous to close the Session but it is not in my power alone. My health is pretty good, bad cold. Write on receipt of this.

Yours,

N. CLIFFORD.

[1] Burrage, page 202.

[2] Portland *Argus*, March 16, 1832.

[3] Famous road house in Hollis.

In reading the records of the first two years spent by Mr. Clifford at the legislature, it is evident that his position at the close of the period was very different from that at the beginning. At the opening of his initial term, it took some time for him to find himself, and to feel sure enough of his status to warrant the assumption by him of more than a listener's part. He was, however, not the kind of man to occupy such a place long. Gradually he made his way to comparative confidence and later to complete mastery of the details and responsibilities of his office. That he had won the esteem and confidence of his fellow members is shown by his election as speaker *pro tem* on Feb. 22, 1832,[1] by a vote of 94 to 27, during the illness of Mr. White.

His close friends were the leaders among the Democrats of that time. Mr. Dunlap, Mr. Fairfield, Mr. James W. Bradbury, and Mr. Hugh J. Anderson, were all men of prominence and influence, and loyally aided Mr. Clifford in his future career. Success politically comes from a variety of causes, one of the most important of which is the association with the proper group in the party. Mr. Clifford apparently chose well. He was about to enter upon a career of almost unbroken public service lasting the remainder of his life. Friends of the right sort were a valuable asset.

[1] Portland *Argus*, February 28, 1832.

CHAPTER III

Representative to Legislature and Attorney General of Maine

DURING the session of the legislature in 1832, a gathering of the Democrats of that body was held in the Representatives' chamber. A committee of ten were chosen "to take into consideration what measures should be adopted by this convention to secure a representation of the party of this state in the convention to be holden at Baltimore in May next for the purpose of nominating a candidate for Vice-President of the United States, and to report resolutions, expressive of the sentiments of this convention in relation to the present national administration." Messrs. McGuire, Emerson, Talbot and Smith of the Senate, and Messrs. White, Clifford, Jarvis, Knowlton, McCrate and Steele of the House made up this delegation.

They drafted a document favoring Jackson and Van Buren for President and Vice-President, also stating that the action of the Senate of the United States in rejecting the nomination of Mr. Van Buren as Minister Plenipotentiary to Great Britain "finds no justification or excuse," and that the Senators from the State of Maine in voting with the majority "have violated their oath to their constituents and forfeited all claim to public confidence," since they acted contrary to the wishes of the greater number of the people of the state. These resolutions were introduced by Mr. Clifford and were adopted unanimously.[1]

[1] Portland *Argus*, March 2, 1832.

The Senators so severely criticized by the Democrats were John Holmes, of Alfred, and Peleg Sprague of Hallowell.[1] These gentlemen were both Whigs, who on their return to their native state, after the adjournment of Congress, were given a very enthusiastic reception by the members of their own party. At a dinner tendered them by the admiring citizens of the City of Portland, references to their being saviors of their country and holders of the breach were not infrequent. The two divergent views of their action, as expressed above, show the height to which factional feeling had arisen at the time of President Jackson's second nomination.

The alleged objection to Mr. Van Buren for minister was that he had introduced internal party contests into diplomacy, while Secretary of State, by certain instructions to McLane, at the time the latter held the mission to Great Britain.[2] Van Buren had later resigned as Secretary of State, assigning as a reason that as he was a candidate for the succession, it was not proper for him to remain in the cabinet.[3] President Jackson, in order to keep his favorite prominently in the public eye, had nominated him as minister to Great Britain, which appointment had failed of ratification in the Senate, probably for no other cause than that of President Jackson's desire for its approval. Therefore, the action of the Maine delegation in censuring the stand of the United States Senate, and in criticizing the attitude of the Maine senators, was in reality nothing but a vote of confidence in President Jackson. That Mr. Clifford was responsible for this position, and was also the father of the resolutions against the United States Bank, seems to carry out the contention of the Portland *Adver-*

[1] Portland *Advertiser*, August 14, 1832.

[2] *Andrew Jackson* (Am. Statesmen Series) by W. G. Sumner, page 210.

[3] *Martin Van Buren* (Am. Statesmen Series) by Ed. M. Shephard, page 195.

tiser, mentioned in the last chapter, showing that whenever the administration wished for a measure of support, it could count on him not to fail it. The advocacy by the Maine Democrats of Mr. Van Buren should be remembered in connection with the subsequent preference of Mr. Clifford for Mr. Van Buren over Mr. Polk, for the presidency in 1844.

It is interesting to note that the delegates to the National conclave were chosen by the party leaders who had assembled at the state capital during the session of the legislature, and not by means of the district and state convention as at the present time. This course is readily explained by the difficulty of communication, though occasionally the latter method was used. However, trouble and expense were saved by the assumption on the part of members of any political organization, gathered together primarily for other business, of the duties and powers now exercised by the bodies elected for the particular purpose, neither practice having any sanction except that of custom.[1]

At an adjourned meeting of the convention, the committee reported a list of delegates to attend the national body in Baltimore. Among the number so selected were Jeremiah Goodwin, John Fairfield and Nathan Clifford from York County. Others of note were Robert P. Dunlap of Brunswick, and Hugh J. Anderson of Belfast.[2]

It is well to stop to consider what an experience it must have been for a young man in Mr. Clifford's position to be elected to serve in such a capacity. The journey from Newfield to Washington or Baltimore for a young country-bred man of twenty-nine years of age in the year 1832 must have been a never-to-be-forgotten event. In 1830 there were but twenty-three miles of railroad in the country.[3]

[1] Bryce, *American Commonwealth*, vol. ii., page 177.

[2] *Argus*, March 6, 1832.

[3] McMaster, *History of the People of the United States*, vol. 5, page 145.

In 1832 short stretches of track had been laid on which cars were drawn, sometimes by horses, sometimes by mules, but less often by steam engines. As the Baltimore and Ohio was the first one to be operated by steam, it is possible that Mr. Clifford travelled a small portion of his way by some such conveyance. There were also at this time a few steamboat lines along the Atlantic coast. One ran from Providence to New York, and another from New York to Annapolis, so that the trip could have been made largely by water.[1] However, both these means would have been so novel to Mr. Clifford, it is inconceivable that no mention of such a remarkable occurrence should be made, if it had fallen to his lot. As illustrating the mode common at that time, it may be said that in 1832 there were ninety-three lines of stages running out of Boston,[2] but the first locomotive in Massachusetts was operated over the Boston & Worcester Railroad in 1834.[3] As it is doubtful if Mr. Clifford had ever been farther away from home than Boston, the coach and carriage had probably been the only vehicles ever patronized by him. Judging from the two letters to his wife which are hereafter quoted in full, his entire journey was made in the way which was then commonly in use.

It had been prophesied that a Federal Government in the United States could never succeed because of the great difficulty of communication between the widely scattered sections of the country. One can well sympathize with such a statement when he reads of Mr. Clifford's sixty-six hour trip from Providence to Washington, if he fully comprehends the slowness and hard ships incident to travel ninety years ago.

[1] See map, McMaster's *History of the People of the United States*, vol. v., page 148.

[2] Crawford, *Romantic Days in Old Boston*, page 331.

[3] *Ibid.*, page 343.

Fanny Kemble, an English actress, writes in her diary at some length of a tour which she took in this country in the year 1832. The coaches then in use would have been far from comfortable on a smooth road, but along the American stage routes the journey must have been terrible. She speaks of riding over whole trees thrown across their path, and bumping and jolting to a terrific extent. Add to this the lack of any proper sleeping accommodations, together with the fact that food was served at wayside houses at long intervals; then picture the condition of a wayfarer in a driving easterly rain storm or a New England blizzard, and one would scarcely hope that the "good old days" may return. The only redeeming feature of such an episode seems to have been the fairly good meals and rooms furnished at certain hotels. The inns, which were the termini of the day's run, acquired a reputation for hospitality and good cheer, extending far and wide. The roaring fires, warm quarters and well cooked food of these hostelries must indeed have been a godsend to the poor creatures who had been worn out by long exposure to the barbarous conveyances of those days.[1]

The Democratic convention held at Baltimore in 1832 was the first national gathering of delegates of that party ever held in this country. The Whigs and the Anti-Masons had met in presidential conclave during the previous year. Thus Mr. Clifford was present at one of the very earliest instances of the use of an American-born device for the nomination of candidates for office, which was to dominate our political history for the next hundred years.[2] The records of the proceedings show how much of an experiment it was then considered, and we may seriously doubt whether the practice would have been con-

[1] *American History told by Contemporaries*, Hart, vol. iii., page 564; also Crawford, *Romantic Days in Old Boston*, pages 348–50.

[2] Bryce, *American Commonwealth*, vol. ii., page 177.

tinued had not the country in future years been knit together by the great transcontinental railroad systems.

Jackson was chosen by unanimous consent. Apparently, his renomination had been a foregone conclusion. Indeed, so much was this the case, that Niles' *Register*[1] in its account of the event makes no mention of the vote for Jackson, but speaks only of the selection of Van Buren as a candidate for Vice-President, thus displacing Calhoun, the running mate of "Old Hickory," during his first term.[2]

An interesting feature of the assembly was that the venerable Charles Carroll of Carrollton, at that time the sole survivor of the signers of the Declaration of Independence, was asked to sit upon the platform as the guest of honor, but had to refuse, on account of ill health.

CITY OF BOSTON May 13, 1832

DEAR WIFE

I started from Alfred Saturday morning at three o'clock and here last evening at five in company with Mr. Goodwin[3] and found Mr. Fairfield[4] at the Commercial Coffee House[5] where we shall stay until tomorrow morning (Monday). At five oclock we start for Providence (R. I.) and intend to sleep in the city of New York. I passed through Ipswich, but did not see George. Also passed through Beverly, Salem & Charleston. Last evening was spent in company with David Henshaw the collector of this Port a very pleasant & intelligent man. To day I shall attend

[1] May 26, 1832.

[2] *Biog. Cong. Direct.*, page 435.

[3] Goodwin, Jeremiah, of Alfred, State Treasurer, 1839, *Maine Register*, 1920–1, page 205.

[4] Fairfield, John, Saco, Rep. of Decisions, 1832. Member 24th Congress, 1835; 25th, 1837; Gov. of Me., 1839, 1842, 1843; U. S. Senate, 1843, *Maine Register*, 1920–1, pages 203, 210, 211, 213.

[5] Commercial Coffee House, a favorite tavern for stage travellers. It stood in a court yard paved with cobblestones, where Exchange Club now is. Crawford, *Romantic Days in Old Boston*, page 338.

Doct. Channings[1] meeting in the forenoon & Dr. Beecher's[2] in the afternoon. I had a very pleasant ride. The weather is not warmer here than at Newfield & vegetation but little in advance. People just commencing planting. I saw Uncle Simpson[3] at Greenland in his field but did not speak with him. Last evening we went to the market which is always lighted up in great stile on Saturday evening & filled with all sorts of provision kind as well as people of every class "from gay to lively & from lively to severe."[4] Plenty of fine *Radishes*. The market is built of hewn granite, is four-or-five hundred feet in length & perhaps sixty feet in width. An isle through the centre, perhaps twenty feet in width, the whole length of the building —on each side of which the building is divided off into stalls which are rented by the City corporation to people who follow marketing. One is filled with Beef one with veal one with fruit, one with cheese, some as large as Dr. Ayer's &c, everything you can think of. Boston has increased some in size but more in beauty since I was here before. Most of the new buildings (& they are constantly tearing down old & building new) are stone front of beautiful granite, the handsomest stone in the world. They are enlarging the City by building out into the Mill Pond. It is said that 300 acres of the City has been made by filling up the sea. The place where I stop was a place of anchorage for vessels. My ride has done me good. I feel well & thus far much pleased with my journey. You shall hear from me often. Tell James I have seen the Limington paper. A miserable dirty thing—will do no one any harm but its owners & perhaps they are safe having nothing of

[1] Channing, William Ellery. Unitarian minister of church in Federal St. *American History Told by Contemporaries*, vol. iii., page 642.

[2] Beecher, Dr. Lyman. Congregational minister of Bowdoin St. Church. Crawford, *Romantic Days in Old Boston*, page 98.

[3] Mr. Clifford's mother's name was Lydia Simpson.

[4] "From grave to gay, from lively to severe." Pope, *Essay on Man.*

character or money to lose. Tell Elisha[1] to be careful of his health. His life is in his own hands. He can preserve it in one way & that only. I think he will. I set by him & wish him well but cannot help him. He must help himself or no mortal man can render him any benefit. Take good care of the children & be careful of the fires.

Yours truly

NATHAN CLIFFORD

CITY OF BALTIMORE May 21, 1832

MY DEAR WIFE

I arrived in this city last Saturday evening after having paid a very pleasant visit at Washington. I was but 66 hours travelling from Providence to Washington City where we staid from Wednesday to Saturday. I saw & shook hands with President Jackson at his house, a fine looking man in excellent health & spirits. He has been slandered more than I supposed. I did think there must have been something to make it out of, but I assure you & certainly I have no reason to disguise to you with whom I never dissemble, he has been foully slandered. He is a gentleman in his manners not a fop. A man of strong powers and a well cultivated mind. His dress is plain but good. In fact he is a republican such as we could wish to see but seldom find. He thinks of visiting the northern States this season. Our convention assembled to day. I have had no opportunity to count them, but it is the largest convention of delegates I ever saw & estimated at five hundred—fifty from old Virginia. I have seen most of the great men of our country, Jackson, Calhoun, Clay, Webster, Livingston,[2]

[1] Elisha Ayer, elder brother of Mrs. Clifford.

[2] Edward Livingston. Member of Congress in the 4th, 5th & 6th Congress as a Democrat. U. S. District Attorney. Mayor of N. Y. Moved to New Orleans, 1804. Rep. to Congress from La., 18th, 19th & 20th Congress as a Jackson Democrat. U. S. Senator from La., Sec. of State 1831 to 1833.

McLane,[1] Woodbury,[2] Cass,[3] Wirt,[4] Forsyth,[5] Tazewell,[6] Hayne,[7] etc., to most of whom I was introduced. It is not in my power & I have not time to describe all the cities. Baltimore is by far the most pleasant I have seen. I did not call at New York but shall on my return. I cannot tell when I shall come home but probably as soon as I expected. We have had green peas several times. Radishes in abundance. We could not get boarded at a public house in Baltimore, every room was taken up before we returned from Washington City. A great many strangers. The Races have just commenced. We board at Mrs. Lenchenbergs, a fashionable house. It is expensive travelling. I shant buy much.

Minister plenipotentiary to France, 1833. Distinguished on account of long legal battle with Thomas Jefferson, for which see Beveridge's *Life of John Marshall*, vol. iv., page 100, *et seq.*, *Biog. Cong. Direct*, p. 656.

[1] Louis McLane. Rep. to 15th, 16th, 17th, 18th & 19th Congress as a Democrat. U. S. Senator from Delaware. Minister to England. Sec. of Treasury, 1831 to 33. Sec. of State, 1833. Pres. of Baltimore & Ohio R. R., 1837–1847. *Biog. Cong. Direct*, p. 673.

[2] Levi Woodbury. Gov. of N. H., 1823. U. S. Senator as a Democrat, 1825–1831. Sec. of Navy, 1831. Sec. of Treas., 1834 to 1841. Justice Sup. Ct. U. S., 1845 to 1851. *Biog. Cong. Direct.*

[3] Lewis Cass. Sec. of War under Jackson. Minister to France. U. S. Senator from Michigan as Democrat, 1845 to 1848. Defeated as Dem. candidate for Pres., 1848. Sec. of State under Buchanan.

[4] William Wirt. Very dissipated, but very brilliant lawyer, associated with the government attorneys in the prosecution of Burr for treason, also counsel in Dartmouth College case, and other famous constitutional litigation. Beveridge's *Life of Marshall.*

[5] John Forsyth. Atty. Gen. of Georgia, 1808. Member 13th, 14th, & 15th Congress as a Democrat. U. S. Senator, 1818. Minister to Spain, 1819. Again elected to Congress and Senate. Sec. of State under Jackson, 1834. Re-appointed by Van Buren.

[6] Littleton W. Tazewell. Member 6th Congress as Democrat from Virginia. Commissioner under Florida Treaty with Spain. Declined mission to Gt. Britain. U. S. Senator.

[7] Robert Y. Hayne. Opponent of Webster in famous debates. See *Biographical Congressional Directory* under different names.

I have so many about me I cannot write. When I come home I tell you all.

Yours

N. Clifford

Mr. Clifford was once more elected to the legislature in this year (1832) and at the opening of the session was made speaker. He was but twenty-eight years of age at this time, filled with great ambitions, but still aware of his inexperience and his lack of knowledge requisite for the post. His address to the House upon his election is interesting for this reason:

Gentlemen of the House of Representatives:

I enter upon the discharge of the duties which your partiality has assigned me, deeply impressed with a sense of the respectability devolving upon the presiding officer of this responsible and highly intelligent body, and with an anxious desire to discharge those duties in a manner to deserve the high distinction conferred upon me by the representatives of this flourishing, democratic State. Permit me to tender you my sincere acknowledgments for this manifestation of your confidence and respect, and to assure you I am fully sensible how much I must depend for any measure of success in the performance of the intricate duties incident to this responsible station, upon your friendly aid and indulgence. Entire accuracy will not be expected from one of my limited experience and acquaintance with parliamentary proceedings. All I can promise is an honest discharge of the duties, and a constant endeavor to maintain the honor and dignity of this House by properly enforcing its rules and orders, and by a strict adherence to the well settled usages of deliberative assemblies.

The circumstances under which we are convened, are

peculiarly interesting and satisfactory. The elections in the State and Nation which for a long time have excited a deep interest among all classes of our citizens, have terminated in the triumphant vindication of republican principles, and in a manner so decisive as to induce the belief that all parties will acquiesce in the decision of the popular voice, which in a free government, must ever be regarded as the sovereign power of the land to which all should bow with the most respectful deference. It is to be hoped that our deliberations will not be characterized by those party animosities which have disturbed the harmony of preceding Legislatures, but that our best efforts will be directed under the blessings of Divine Providence, to the attainment of such results as shall secure to us, on our return to our constituents, their warm approbation. Believe me, gentlemen, that in the accomplishment of these desirable objects, you will receive my personal aid and hearty cooperation.

Only one letter during his first term as speaker has been found. It was written toward the close of the session and shows that even the uncompromising young Democrat was still somewhat susceptible to the blandishments of wealth as displayed in the form of private carriages after a very intimate association with those of a public character.

STATE HOUSE Feb 26 1833

MY DEAR WIFE

This is the last time I shall write you before returning home. We shall adjourn Thursday or Friday this week. I shall come home in a private conveyance in company with Hon. Mr. Bradbury. Cannot say what day shall arrive at home. Shall not be able to travel quite as fast as I should in stages. I should think might be home Saturday or Sunday but may not before Monday. Shall come as soon

as possible. I am well. Things go on finely. I have just been chosen Chairman of the State Central Committee of Correspondence an honorable station *without profit.*

Yours in haste
NATHAN CLIFFORD

Inasmuch as the duties of the Chair during the session of 1833 and 1834 took the young man out of any active participation in the debates of the House, it has been deemed advisable to quote Mr. Clifford's remarks in reply to the customary vote of thanks at the close of the Legislature of 1833, together with those at the opening and end of that of 1834, in order that the reader may trace as far as possible from the speaker's own utterances the development of his character and the crystallization or change in his opinions.

Address[1]

I feel with deep and grateful emotions the honor conferred upon me by the resolution just passed, approving of the manner in which the services of the Chair have been performed, during the present session. It has been my constant endeavor to merit your confidence and esteem by a faithful and impartial performance of the various duties devolving upon me and by an unremitting exertion to facilitate the public business and to place every subject before you in a proper and acceptable manner. It is a matter of pride and satisfaction that my labors have been rewarded by this very flattering testimonial of the representatives of the people. A spirit of frankness will compel me to acknowledge my errors, and for which excuse I must refer you to my inexperience, which was known to you at the time of my election. I am fully sensible how much must be attributed to your friendly aid and support for every measure of success which has attended my effort,

[1] Portland *Argus*, March 6, 1833.

and for your indulgence on all occasions I tender you individually my most unfeigned acknowledgments. If during our association and while passing upon a great variety of subjects of general interest and importance, any differences of opinion have existed among us, as the hour of separation approaches, I trust every vestige of unkindness will be effaced from our memories, and that we shall return to our respective homes with feelings of mutual regard and respect. It is with pleasure that I bear testimony to the industry and zeal with which you have devoted yourselves to the transaction of the great variety of public and local business which has been presented to the consideration of the present Legislature, to the fidelity and constancy with which you have sought to promote the public good, and to the unanimity and harmony which have characterized your deliberations. May we not confidently hope that the measures we have adopted and the motives by which we have been actuated will receive the approving voice of the people whose right it is to scrutinize the doings of their servants. I flatter myself that the circumstances under which we are to separate are no less pleasing and satisfactory than those under which we were convened. In reviewing the conditions of our country there is "much of hope" and "nothing of fear." The recent events which have transpired at Washington afford the most pleasing anticipations for the permanency and continued success of our free institutions, and furnishes the most cheering evidence that public opinion is able to overthrow not only the combination of aristocracy and wealth, but to silence forever the clamors of disunion and anarchy. While all around us are prosperous and happy, a sense of gratitude will induce us to remember Him from whom all these blessings flow.

Gentlemen, we are about to close our public labors and to mingle again with the people. It is a melancholy

thought that we may never meet again and probably no future Legislature will have the honor to reckon among its members any of the Patriots of the Revolution. Permit me to wish you a safe and happy return to the bosom of your respective families and friends where I doubt not you will continue to enjoy all the comforts of domestic life and receive the increasing confidence of your constituents as the reward of faithful public service and private virtue.

Address at opening of Session of 1834

Gentlemen of the House of Representatives:[1]

I feel myself under deep and lasting obligations of gratitude for this manifestation of your confidence and esteem. Accept my grateful acknowledgments for your partiality and favor, and, believe me, no exertion within my ability, shall be wanting, in discharging the responsible duties devolving upon me, to gain your approbation, and justify your choice to the people of the State, whose servants we are, and whose indubitable right it is to examine with scrupulous care, the motives of all who are entrusted with the important subjects of legislation.

The experience I have had in the situation to which you have called me, has not failed to impress me with a sense of responsibility assumed in accepting the office, and to admonish me of the difficulties attending a discharge of its duties in a manner to give general satisfaction, without occasionally disregarding individual requests and incurring individual displeasure. It will be my anxious desire to satisfy all without distinction of party, but my inflexible determination to maintain, on all occasions, the rules and orders of the House, and to be governed in all respects by its wishes.

[1] Portland *Argus*, January 3, 1834.

It would be useless for me to deny my connection with one of the political bodies of which this House is composed; and a spirit of frankness induces me to acknowledge my partiality for those ever living principles of Democracy which, while they discard all aristocratic institutions and all unnecessary accumulation of power over the persons and property of individuals, as hostile to the spirit of liberty, seek to promote the happiness and prosperity of all, by leaving each to pursue the dictates of his own choice, in selecting the means to accomplish those great and valuable purposes. You will pardon me for alluding to political distinctions. They are so incorporated into all legislative proceedings that hypocritical professions of neutrality cannot but be regarded as the misgivings of a cowardly disposition, or the subterfuges of selfish and mean policy.

But while I shall not feel called upon in any vote I may give, to sacrifice any principles I may deem essential to the welfare of our constituents, it will be my pride and ambition so to conduct myself, as an officer, as to merit the high commendation of acting as Speaker of the House, and not of a party.

Gentlemen—You are convened for important purposes, to act upon important subjects. It is not necessary that I should remind you of the magnitude of the interests which, under the Constitution, are entrusted to you, and the heavy responsibility which any would incur, by violating the wishes of those he is chosen to represent. In a government like ours, where all power is derived from the people, it requires no argument to prove that public officers may justly be held to a rigid accountability.

With these considerations constantly before us, let all our deliberations be characterized by that spirit of moderation and forbearance, so essential to the proper understanding of every subject, presented for the action of a deliberative assembly, especially of one so numerous as the

House of Representatives of this State. In all measures calculated to promote the general welfare, you will receive my constant aid and hearty cooperation; and may the blessings of Divine Providence guide you to such results as will secure to you, on your return to your constituents, their highest commendation.

At the close of the 1834 legislature, Mr. Abbott of Vassalborough, moved the following resolution[1]:

Ordered the thanks of this House be presented to Nathan Clifford, Esquire, Speaker, with assurances of the deep sense they entertain of the ability, correctness and impartiality with which he has discharged the duties of his high and responsible office.

This motion was passed unanimously.

Mr. Speaker Clifford replied as follows:

Gentlemen of the House of Representatives:

Under all circumstances of life, I shall cherish in grateful remembrance the courtesy and kindness you have manifested towards me during the period I have had the honor to preside over your deliberations. The tribute of respect contained in the resolution just passed adds much to the debt of gratitude which I owe to the members of this body for the generous support they have given me on all occasions in the discharge of the various and responsible duties of the Chair to which I have been twice called by the unanimous vote of the party with which I am associated, and which I am now about to relinquish, without any expectation of ever resuming it again. This expression of your approbation is the more gratifying to my feelings, emanating as it does from a gentleman with whom I have maintained the most friendly relations, though politically opposed, and whose integrity and purity of motive reflect

[1] Portland *Argus*, March 17, 1834.

the highest honor upon him as a man and upon the people he is chosen to represent. In taking my leave of the House permit me to tender to you individually and collectively, my humble acknowledgments for the favorable opinion you entertain of the manner in which the duties of my present situation have been performed. It has been my anxious desire to merit your commendation, and to deserve the confidence of the people of the State; and whatever may be my success in future life, I have the assurance to believe that *here* I have met the reasonable expectations of my friends, and in some good degree, given satisfaction to all; though sensible I am, that the measure of success which has attended my efforts should be ascribed not so much to any peculiar qualifications of my own, as to the friendly assistance I have always received from the members of this House without distinction of party.

The length of the session has exceeded my expectations, and very much my wishes, though it bears no comparison to the great mass of public and local business which has been presented to its consideration. It is useless to deceive ourselves any longer. For many years to come, there is no ground to expect any diminution in the demands upon the time and attention of our annual legislature, if indeed it were desirable. The existence of such increasing demands furnishes indubitable evidence of the growing prosperity of our State, and the laudable spirit of enterprise which pervades all classes of our citizens. We have a large population, scattered over a still larger territory, diversified with every facility for improvement which a kind Providence ever bestowed upon man. If any are disposed to complain, let them look at our extended seacoast, at our immense forests, and at our noble rivers, with all the various projects of improvement growing out of these natural blessings, which annually require the careful and serious consideration of the Legislature, and say if they

can, that we have been wanting in economy, in industry and devotion to the best interests of the State. It becomes me on this occasion to bear testimony to the zeal and fidelity with which you have devoted yourselves to the performance of your respective duties, and to the promptitude with which you have met every requisition upon your time and industry, and to the harmony and good feeling which have characterized all your proceedings. It may be said without fear of contradiction, that the doings of the present Legislature will not suffer in comparison with any which has preceded.

Gentlemen, the labors of the session are now closed. The results of your deliberations are with the people whose right it is to pass sentence upon the motives and conduct of all their servants. The ability and wisdom which have marked your deliberations will not fail to secure to you in an intelligent and just community, the rewards of honest intentions and of faithful public service. As the hour of separation approaches, let all past differences be forgotten; and all unkindness effaced from our memories. Accept the assurance of my friendly regard, and my fervent aspirations for your future prosperity and happiness; and may the smiles of Providence attend you in a safe return to your families and friends, where I doubt not you will continue to enjoy all that public consideration which is justly due to private worth and virtue.

The winter of 1834 had found Mr. Clifford for the fourth time a member of the State Legislature and for the second time its speaker. This was the last time he was to take any part in the deliberations of that body. It had been an interesting experience. It had given the young man confidence in himself, and had extended his acquaintance beyond the confines of the county of his home. He felt he had merited a certain measure of praise for the manner

in which he had conducted himself in a position of public trust and he was now on the lookout for something higher. The following letters to Mrs. Clifford all written in 1834, besides many references to household matters, show a state of mind well satisfied with the past but anxious for new honors:

AUGUSTA Jany 3 1834

DEAR WIFE

I have not had spare time enough to write one line to you. I tarried in Portland until Monday morning & arrived here Tuesday noon. I have engaged board at the Mansion House[1] kept by Rogers with fine accommodations but *I expect to have to pay for them.* You will see by the Newspapers I am reelected by the unanimous voice of the Democratic party the whole Smith party went for me . . . I am in tolerable health. A great deal of local business & the prospect of a long Session, though we have organized with uncommon dispatch. The federal party are entirely silent. I have no doubt I shall succeed in my expectations. Take good care of the children & take care and [not] get burned up. I shall write as often as I have time. Tell George[2] to see well to the Barn and James[3] to forward all my letters.

Yours as ever

NATHAN CLIFFORD

AUGUSTA Saturday evening 12 o'clock Jany 11 1834

MY DEAR WIFE

I steal one moment from rest to write you. It is not necessary to acquaint you with any political movements as you will see all in the newspapers, but am sorry to say the prospect is we shall have a long session. I am anxious

[1] Built to accommodate members of the Legislature. Portland *Argus.*

[2] George Ayer, younger brother of Mrs. Clifford, born, 1814.

[3] James Ayer, elder brother of Mrs. Clifford, born August 3, 1805.

to get through as I do not expect ever to be in the Legislature again. All things move to my mind. I have no doubt my wishes will be gratified in reference to the subject I conversed with you about before I left home. I think there can be no mistake. Say nothing. *Burn this.* I wish George to take good care of my colt. Let the stable be cleaned out else her hind feet will be higher than her head. My love to you & children. I hope you are all well. My health is good. My head nearly well, has not troubled me any. Write often

Yours forever

NATHAN CLIFFORD

AUGUSTA Jany 19, 1834 Sabbath Evening 12 o'clock

MY DEAR WIFE

My room is just vacated of company. I do not feel at liberty to retire to rest without writing you a word or two. How much more happy I should be if at home with you and our children though everything moves along to my wishes. I have great reason to be thankful for the success which has attended me thus far through life. Providence has been kind to me beyond what I had any reason to expect from the combination of circumstances which surrounded me in youth. The session must be a long one. Business increases daily. I fear I shall not be at home in February. My health is tolerable. The disease in my head is better though not entirely removed. It has not troubled me any. My hearing is good. My boarding House is a good one. People very kind. Take good care of the children. There is more danger of their taking cold in this warm weather than when it is cold. How is Maam Ayer? You have not mentioned her name. Has she wood enough. James must see to that. Tell Elisha he must not keep his horse on my hay after he gets well. I fear I shall be scant. I want my mare taken good care of.

Be careful of the fire. You would be in a sad predicament to be burned out in my absence. . . . . Make yourself as contented and happy as possible. Remember this is my last session but you will say what next. I dare not answer *though I know.* No mistake—Never mind if I am absent a part of the time we must love each other the more when we are together. Sometimes I am half inclined to give up public life & stay at home, but it will not do. Write often tell all to write. All the comfort I take is when I receive a letter. Have you got your gown made. Who made it.

Your husband

NATHAN CLIFFORD

AUGUSTA Jany. 24, 1834.

MY DEAR WIFE

Nothing new or strange has occurred here which can be of much interest to you and I feel that you would like to receive a letter if it does not contain but two lines and even should the ideas be less than the words. It is useless to think of getting through before the tenth of March. We committed yesterday to the several committees more than fifty petitions each of which must be the basis of a report and perhaps of extended discussion. I never wish to be a member again though nothing has occurred contrary to my wishes. It is no place to make money and the honor while new is pleasing; when borne for a while loses all its weight and influence. No one has greater reason to be thankful to his friends for their support than I, nor to be satisfied with the measure of success considering the disadvantageous circumstances which surrounded me in the outset. They are now all fully overcome & my popularity is all I could reasonably ask—The President of the Senate[1] has just received intelligence of a great loss by

[1] Joseph Williamson of Belfast.

fire. Two buildings were consumed worth 3 thousand Dollars on which he had a small insurance. Not his dwelling house. You must be very careful. Yesterday the Bank resolutions were discussed to a "House crowded with spectators of both sexes." A very animated discussion. They passed our House by a vote of 120 to 52. To-day they passed the Senate without debate by a vote of 21 to 2, thus sustaining the administration by a vote as decisive as any state in the Union can give. The opposition is feeble and much discouraged. Our friends are firm and well united. The best Legislature I have ever seen, composed of a set of well informed and strait forward, determined men who ask nothing which is not clearly right and are determined to submit to nothing that is wrong. I am well. You must write three times a week if but to let me know how your health & the children are. It is very cold have you a plenty of wood? Has the cellar frozen.

Yours forever

NATHAN CLIFFORD

AUGUSTA Feb. 3 1834

MY DEAR WIFE

After a long delay I once more have found time to write a few words. Nothing strange has occurred here. We are progressing with all reasonable dispatch with the public business. I am not without hope that we shall be able to close the Session in this month though the chances are against it. My engagements are more pressing this year than last. Our new President of the Senate does not supply the place of F. O. J. Smith.[1] I have not mingled any in society here nor shall I be able to and my known pressing engagements give me ample excuse. Elisha may let Dr.

[1] F. O. J. Smith of Portland. Later Rep. to Congress, 1833–1837. Prominently connected with W. F. B. Morse in the invention of the telegraph. See references to him in the Pierce-Clifford atty-gen. controversy.

Shaw have the back part of my office for the present. I am pleased that Dr. Shaw is coming to our place though I deeply lament the death of Dr. Ayer.[1] It was not possible for me to attend his Funeral though I rank myself among the number of his friends who have sustained a great loss; an almost irreparable loss. My health is exceedingly good. My love to the children & to you.

Yours truly

NATHAN CLIFFORD

AUGUSTA Feb. 4 1834

MY DEAR WIFE

I have just received your letter in which you say it is rumored I am about to leave Newfield & to leave the office of Speaker. *It is all false.* I never stood any better, never so well as Speaker as I now stand. Say nothing about my being a candidate for any office. Let people suspect & tell stories. The matter will be set right in due time, in all good time *for my enemies.* I shall be successful never surer, but you must not say so. I have no intention of removing from Newfield. I shall not resign the office of Speaker and I am in no danger of being removed. Nobody (if) ever thought of it. I have the full confidence of all parties especially of my friends.

In haste Yours

N. CLIFFORD

AUGUSTA Feb 5 1834

MY DEAR WIFE

I believe I have written every day for a week and yet not one word do I hear from you. My engagements are

[1] James Ayer, in whose house Mr. Clifford had an office on his arrival in Newfield in 1827.

very pressing and probably you have to work hard and it would seem you might find time to write occasionally. Tomorrow we have the State Convention. People are flocking in here from all quarters the town is running over. We have spent this whole day upon one Bill setting off Bowman's point to Gardiner. If business is to be discussed to this length we shall not get home in March. Ask James to see if Howard will consent to have all actions continued in which he & I are engaged. I hope I shall not have to ask the favor again. My business demands my attention & hereafter shall receive it unless I should be called away by an appointment. That of course cannot be certain though I feel sure as I ought to be. My health is exceedingly good & every [thing] goes to my mind.

Yours truly

NATHAN CLIFFORD

The various mentions of success and similar good news, doubtless refer to his possible appointment as attorney-general of the State. Mr. Clifford sought this office as an advance up the ladder of the political career which his letters show he had deliberately planned for himself. He was a home loving man, but felt that his only hope of the successful attainment to the prominence to which he knew his abilities were capable of leading him was by the hard road of public service. This necessitated long and frequent absences from wife and family. He accepted the chosen course with its burdens. His philosophic attitude is shown by his frequent references to his lonesomeness coupled with some such phrase as "it is no use to repine," "here I must stay," etc.

That the method of obtaining a wished for political office has not changed in the last eighty years, the following is a proof.

ALFRED, November 22, 1833

Hon. CHAS. N. COGSWELL
South Berwick (Confidential).

DEAR SIR

A few days since I received a letter from Nathan Clifford, Esq., saying, "Will you please to give me a letter to R. P. Dunlap, Esq. upon the subject of Atty. General?—I have concluded to accept it, provided I can get it without much difficulty. Will you interest yourself in my behalf? I wish one from J. Bradbury, Hayes, Cogswell, Seaver &c. &c. &c. I will not make any trouble in pressing for the office, but on the contrary will withdraw from the field at any moment when my political friends shall advise it. Will you write your views? The matter is well understood in Cumberland & my wishes will be ably seconded."

The above is the whole of his letter to me. And the question is.—Will the party generally recommend him, & is he qualified for the station?

I know that Hon. Ether Shepley has furnished him with a letter, recommending the appointment, and I have understood Mr. McIntire[1] & other gentlemen have done the same.

Now will you, Judge Hayes & Mr. Seaver recommend him? If so, will *you* please send your respective letters under cover to me?

I am gratified to perceive Clifford is perfectly willing to be advised by his friends—And I know they will not ask his appointment, if they believe he will dishonor the Station. He probably wants to know what strength he can obtain, forthwith.

Your's respectfully,

JERE GOODWIN.[2]

On the reverse side of the above is a form of letter which Mr. Goodwin apparently wished written to Governor Dun-

[1] Rufus McIntyre of Parsonsfield. Rep. to Congress 1827–1833. Maine *Register*, 1920–1, pages 212, 213.

[2] Jeremiah Goodwin. State Treasurer, 1839. Of Alfred. Maine, *Register* 1920–21, page 205.

lap by the recipient of the first communication. It is copied here as it seems a very fair presentation of Mr. Clifford's cause.

Hon. R. P. Dunlap
Governor Elect

Dear Sir

It is well understood that the office of Attorney General of this state will soon become vacant by resignation of Jon^{a} P. Rogers, Esq., the present incumbent, and it is presumed it will be a question with you,—who is a fit person for successor in the office?

So far as I can learn, I believe it is the desire of leading friends of the democratic party in this county, that Nathan Clifford, Esq. of Newfield, should be appointed Mr. Rogers' successor; and so far as my humble desire will contribute to effect the object in view, I cordially add it.

You personally know Mr. Clifford, his talents & worth; and therefore it becomes unnecessary for me to give my views of his claims and qualifications for the station. It is presumed, however, the principal objection with you, dear sir, will be,—is his knowledge of criminal jurisprudence sufficient to qualify him for a ready & able & faithful discharge of the duties of the office?—I will answer I am an incompetent Judge; but knowing as I do, his talents, industry, perseverance and ambitious desires to qualify himself for any station sought by him, I am persuaded a short experience will render him familiar with (the laws practice and routine of the duties of the office), and enable him to perform the duties to the perfect acceptance of the public and honorably to himself. Therefore I will cordially and respectfully request you to give the appointment[1] to Mr. Clifford our late able colleague at the Baltimore convention.

[1] At this time the attorney general was "nominated" by the governor and "appointed" "with the advice and consent of the council." The salary was one thousand dollars a year. *Laws of Me.*, 1822, chap. 205. *Rev. St. of Me.* 1844, p. 639. See also Constitution of Maine.

Augusta March 10 1834

My Dear Wife

We shall adjourn on Wednesday morning. My nomination[1] will be confirmed on Wednesday at 10 o'clock when I shall be immediately qualified & take the stage for Portland where I must purchase some Books, & if possible shall take the stage on Thursday morning for Newfield. If so, I shall be at home on Thursday afternoon; if not you see I shall be necessarily detained on account of our stage till Saturday. That will be avoided if I arrive at Portland Wednesday night in season to make my purchases for you & myself. My nomination will be *unanimously* confirmed.

Your husband

Nathan Clifford

The following letters, written during his holding of the office of attorney general are interesting as giving a picture of the life of a busy lawyer, so different from that of the present day practitioner.

Paris May 22, 1834

My Dear Wife

I have just closed my business at this court. The Grand Jury found two indictments one against Samuel King and Joseph C. Small for stealing Bradley's & Warrens money of Fryeburg of which you may have heard in 1829. It will excite some interest. Both cases are continued to Oct. term, so I have no trials here, but shall be obliged to stay here until Friday morning when I shall leave *not for Augusta* as I supposed when I left home but for Portland which route is recommended as the best and if not best the surest, that is I shall be certain to arrive at Wiscaset

[1] As third attorney general of the State of Maine. This office he held during the term of Robert P. Dunlap as Governor, or until 1838.

when my business calls me there. I had a very uncomfortable ride here. From Limerick to Hiram I rode in an open carriage. From Hiram to Fryeburg a good stage, where I staid till Monday, when I left in a two horse carriage, 8 passengers and one team carried us to Paris over an exceedingly rough country where all the roads are very improvidently bad ones, the highest points of land in many cases worse than May Towles mountain but generally strong and productive land and everything indicates a hardy race of intelligent yeomanry. I like the country. Aristocracy cannot live here. Wealth is equally divided and I venture the prediction that the sons of Oxford will always be Democrats. I am pleasantly situated at Mrs. Hardings an old lady, a widow, I presume. The court lived here. Ask Elisha to see to my planting. Tell him to manage it prudently and I will help him as much. I want James to see to my two year old colts and not let them run in the meadow. I sat up last night till four o'clock in the morning to close my business having had good luck. My health is good. I equipped myself with medicine at Fryeburg. By the way I will not attempt to describe Fryeburg village in a letter but leave that till I come home. I heard an English clergyman last sabbath and rode in the stage with another. Learned much about old England. I did not pass through Bethel not within 20 miles. Sent Sarah's letters by a Grand Jury [man] directly there. You will not be able to read this I fear but never mind you can pick it out. I guess you had better call the babie Hannah Francis[1] or something else with the first name. I have a mind to call her Hannah but I will leave it to you and the rest of the folks. Be careful and not take cold. If you need any necessaries you may purchase them anywhere. I think Elisha will have to buy

[1] Born May 11, 1834. Married Philip Henry Brown of Portland.

your mother some meat & see to the planting of her potatoes I have written more than you can read till I write again.

Your husband

NATHAN CLIFFORD

BANGOR June 19 1834

MY DEAR WIFE

A school boy would say "I now take my pen in hand to inform you I am well and hope these few lines will find you the same" which is really all I have to say except that the court have this moment determined that Judge Weston[1] shall remain here next week to try the criminal Docket and of course I shall remain too. Judges Mellen[2] and Parris[3] will go to Washington next week and will there appoint someone probably the County Atty to fill my place. The criminal business here is very important so that the parties nor the court are willing I should leave. So you see I shall not go to Machias but shall meet the full court again at Castine. I shall direct Judge Parris to take my letters at Machias & bring them to me at Castine. I shall have Judge Weston for company & he is very kind. I want to see you very much; never more in my life. The Mayor gives a great party this evening I am invited but shall not be able to go. Business before parties is my motto. Write at Castine next. These arrangements will change the time of my getting home.

NATHAN.

[1] Nathan Weston, Justice Supreme Judicial Court, 1820–1834 and 2d Chief Justice of the State of Maine. Maine *Year Book*, 1920–21, page 209.

[2] Prentiss Mellen, First Chief Justice of Maine, 1820–1834. Maine *Year Book*, 1920–21, page 209.

[3] Albion K. Parris, Associate Justice of the Supreme Judical Court of Maine 1828–1836. U. S. Senate 1827–28. Maine *Year Book*, 1920–21, pages 209, 211.

Augusta Oct. 3, 1834

My Dear Wife

I shall remain here until week after next on Monday morning when I shall leave for Paris. My duties were light at Norridgewock and will not be very considerable here. One case of some importance in which Mr. Sprague defends. I am upon my oars until tuesday next. When idle the time hangs heavily. Shall expect to hear from you by Monday without fail. My portrait has been taken good care of I shall send it to Swetts if the Driver will carry it. My health is good. The complaint in my head does not trouble me much. I hope to be relieved from that ere long—I wash my head all over in cold water every morning. How does your medicine agree with you. How are the children

Yours truly

Nathan Clifford

Belfast December 12 1834

My Dear Wife

Here I am sick at my room which is cold and uncomfortable. I have taken a bad cold which is seated upon my lungs. Not able to eat or go to court. I have taken some medicine which I hope will relieve me and that I may be able to go into court certainly as soon as Monday & perhaps before. I do not think I am in any danger of a severe sickness though this morning I feared. I shall write to let you know how I am in season for you to get the letter.

I think now I shall be at home Wednesday or Thursday & perhaps before but cannot say. We have snow here & sleighing tolerably good, stages run on runners. I got my money & paid Todd *$1500* all but the interest which I shall pay on my return out of my salary

Your affectionate husband

Nathan Clifford

Machias June 21, 1835

Hon Jabez Bradbury[1]

Dear Sir:

I have not been furnished with the public Laws or Greenleaf's Reports. Will you please bring the matter before the Governor & Council. If my predecessors were furnished they have not delivered them over to me. The eighth volume of Green'l I have received of the Secretary of State. I do not think I ought to be compelled to carry my own books all over the State when many sets are laying useless in the office at Augusta.

Confidential

Mr. Green[2] will resign about this time. If Anderson[3] of Belfast wants the office he ought to have it. If not, perhaps you better delay making any appointment unless some good man is named. I have not heard of any one who ought to have it except Anderson

Yours in haste

Nathan Clifford

Bangor Nov. 8 1835

My Dear Wife

I have not forgotten you though my mind for a few days past has been so intensely occupied in the discharge of my official duty that I have scarcely had time to call to recollection the fact that I had any family but now that the business is off my hands I feel anxious to get home— Saturday at the opening of the court I commenced my argument in close of the case Jane Spenser for the murder of Reuben M. Pitner and occupied the court & Jury till one

[1] Member of Governor's Council, had been state legislator and senator. Died 1836, aged 43.

[2] Roscoe G. Greene of Portland, Secretary of State of Maine.

[3] Hugh J. Anderson, Gov. of Maine, 1844. Member of 25th Congress, 1837–26th Congress, 1839.

o'clock P.M. In the afternoon—Judge Emery & Weston charged the Jury *seriatim*, that is both charged. The Jury retired at ½ past five & at 8 o'clock returned a verdict of *Guilty*. Sentence will be passed on Monday morning at nine o'clock, When the Mayor of the city has tendered to Judge Emery and myself a seat in his Barouche with himself & wife to Dixmont 20 miles, Where we shall stay till Tuesday morning when we shall take the mail for Portland—So you see I shall not get to Portland till Tuesday night and in as much as the County Attorney will have to begin—I mean to get excused and come home if possible—But you must not get your expectations raised too high as I may not be so fortunate as I hope to be. But I will come if it is possible to do so without incurring blame—I cannot stop to give you any account of the trial but will do so when I am home—Hope to find you well and all five of our children—I am in good health—

Your husband

NATHAN CLIFFORD

AUGUSTA March 5, 1836

MY DEAR WIFE

I would not give one fig for your word! You may have forgotten that you agreed to write me so that I might hear from Nancy on Sabbath last but as usual the Post Office is unfaithful. It is uncertain on what precise day I shall return. My prospects here are so good to attain the principal object of my visit[1] that I do not wish to leave till it is disposed of lest the whole matter should be put in jeopardy. All of my friends advise me to stay. I am sure of success but to what extent I cannot say. Not less than two nor more than four increase which in a few years will be no small affair. I am well but rather straightened for

[1] Apparently bill to increase salary of Atty. Gen., which failed of passage. Revised Statutes of Maine, *Laws of Me.*

clean close. Not your fault but mine. I did not expect to tarry half so long. There is nothing stirring here of importance. I have nothing to do but eat & sleep and smoke my cigar. I shall fail of seeing Elisha at home but hope he will call upon me here.

Your husband
NATHAN CLIFFORD

CASTINE June 26, 1837

MY DEAR WIFE

It is perhaps unnecessary to write for it is quite probable I may be at home as soon as this will reach you, though there is yet a little uncertainty about the matter. The majority of the court, Reporter and myself arrived here on Saturday. The best information which can be obtained leads me to suppose that I shall be able to start for home tomorrow at twelve o'clock & if so I shall be with you thursday in the [? two words undecipherable] stage unless I conclude to go by the way of Augusta to secure the supplies belonging to the town in which event I may not arrive before Saturday. There is literally nothing to do here which is an irksome business always but more so at the close of a long absence from home and when one is very desirous of making what haste he can for it usually requires more time to do nothing than is necessary to accomplish a good deal when properly prepared. Old mortality never visited a duller spot than this blessed retirement called Castine. It has been once or twice captured by the British and has as uniformly been abandoned by them voluntarily. At the house where I board there is nothing but the "gabble" of the landlady from morn till eve which has as little music in it for me as the quackle of a flock of geese and it is about as incessant. The people here to-day look very cheerful every countenance wears a smile. It is because the sun shines which is a rare occurrence. I dare

say the place and people would seem more agreeable at a different time. This brings the close of the circuit with nothing to do & yet requiring as much time as if there was ever so much adds not a little to the association of unpleasant things. I am to cross the Bay in a small whale boat but it is said to be safe. If the wind blows I shall not venture. My courage upon the water is not worth boasting about provided I am to go so far from land that I cannot swim ashore . . . I saw Paine at Bangor. He has not settled yet. If I come through Portland I shall purchase the children some caps and Bonnets.

Your husband

NATHAN CLIFFORD

Mr. Clifford had now arrived at the point in his career where his ambition called him to take part in national politics. The Senate of the United States was the office which appealed most to his imagination. After his experiences in the state legislature, he doubtless considered that he was able to conduct himself with credit in a position where readiness in debate was an asset, and the dignity of the Senatorial toga drew him on to hope for a success really beyond what was his due in point of age or service to his party.

He became a candidate for nomination to the position of United States Senator in 1837. There was a vacancy then, owing to the resignation of Hon. Ether Shepley who had been named as Judge of the Supreme Judicial Court of Maine. Governor Dunlap in 1836 had appointed Judah Dana of Fryeburg *ad interim* till the meeting of the legislature in 1837. At this session Ruel Williams of Augusta was elected by 118 votes to 3 for Mr. Clifford, though Mr. Clifford had made a very respectable showing in the party caucus, receiving 49 votes.[1] In view of the more recent

[1] See files of Portland *Argus*, February 24, 1837; Portland *Advertiser*, February 23, 1837; Portland *Argus*, September 4, 1838.

custom of retaining Senators from Maine in office for long periods, it is interesting to speculate how far the future course of his life might have been changed had he been successful in his desire. In after years when his reputation as a great jurist was firmly established and universally admitted, it must have been a source of satisfaction to him to realize that the defeat of his youthful purpose had probably but rendered him free to accept later the honor for which in his more mature life he showed himself most eminently qualified.

CHAPTER IV

Representative to Congress

In the Congressional election of 1838, Mr. Clifford was elected over Nathan D. Appleton of Alfred, by a popular vote of 5,568 to 4,560.[1] This was one of the most exciting political contests ever held in the State of Maine, and personal attacks were very freely made. As an example of the extent to which this sort of ammunition was used, reference may be made to the charge of bad faith against Mr. Clifford while he was seeking the attorney-generalship of the state in 1834.

George W. Pierce[2] of Portland and Mr. Clifford had both wished for this office. We have seen that Mr. Clifford was successful. For a time Mr. Pierce had been somewhat put out by his defeat, his belief being that although Mr. Clifford had promised not to be a candidate, he had later broken his word and entered the race.

This accusation was first publicly brought in 1836, when Mr. Clifford began to have aspirations for the United States Senate, by F. O. J. Smith of Portland, who was a rival candidate, and in whom, previously, Mr. Clifford had reposed both confidence and friendship. Its failure was manifested by the result of the balloting in the Democratic Party caucus in which Mr. Clifford received more than double the votes accorded to Mr. Smith. Mr. Smith evidently allowed his defeat to turn his former regard for Mr.

[1] *Argus*, Portland, September 11, 1838.

[2] See files of York County *Herald*, and especially issues of August 11, August 18, September 1, 1838, September 12, 1840.

Clifford into direct dislike, and again renewed the attack upon him in the Congressional campaign of 1838. As has been shown Mr. Smith was not running against Mr. Clifford and was in fact in Europe, though he had been nominated for Governor by the so-called conservatives against Governor Kent, Whig, and John Fairfield, Democrat.[1]

When the matter was first brought to Mr. Clifford's notice, Mr. Pierce having died in the meantime, he wrote letters to the persons who, he was aware, had a personal knowledge of the questions in dispute. Copies of some of these communications are here given as an indication of the direct method taken by Mr. Clifford in answering a slur upon his honor.

NEWFIELD December 9 1836

Hon JOSIAH PIERCE

Dear Sir

I have recently been accused of dishonorable conduct while a candidate for the office of Atty Gen during the session of 1834 in relation to your brother the late George W. Pierce Esquire. As you were a member of the legislature at the time & have an intimate knowledge of all that transpired during the pendency of that question I wish you to state whether any conduct of mine within your knowledge—can furnish any ground for such a charge. I know your brother was somewhat dissatisfied at the time but as I was induced to believe his subsequent reflections effaced any degree of unkindness from his mind. His letter to me asking my humble aid in procuring the appointment of Reporter satisfied me upon this point. If I am not mistaken you were of the opinion that I ought to be appointed though you did not feel at liberty to take my

[1] Hatch, *History of Maine*, vol. i., pages 231–232, also *Argus*, August 14, September 3, 4, and 11, 1838.

part. As this is matter bearing upon my private character I appeal to your sense of justice for a full statement of facts according to your best recollections. Your lamented Bro. is not here to do me justice but I feel that I may safely call upon you as his proper representative—

Your friend & Humble Svt

NATHAN CLIFFORD

A similar note was sent to Ex-Governor Dunlap.

The next letter is quoted because it shows Mr. Clifford's willingness to submit to the judgment of a person present at the interview, the exact nature of his agreement with Mr. Pierce. It should also be noted that the addressee was a supporter of F. O. J. Smith for Governor.

PORTLAND, December 10, 1836

ALBERT SMITH ESQ—

Dear Sir.

I have recently been accused of dishonorable conduct while a candidate for the office of Attorney General during the session of 1834 in relation to the late George W. Pierce, Esquire. As you were present at an interview between Mr. Pierce & myself a short time before the commencement of that session where our relation to each other as candidates was talked over I wish you to state the result of that conversation. I think you were at Augusta a part of the session & know much that took place in relation to that appointment. Will you say whether any conduct of mine within your knowledge furnishes any ground for such a charge.

Yours respectfully

NATHAN CLIFFORD

No answers to this correspondence have been found among Mr. Clifford's papers. Whatever the replies may

have been, Mr. George W. Pierce evidently had been satisfied by Mr. Clifford's explanation, and had applied to him for the latter's assistance in obtaining the office of Reporter of Decisions. The *Daily Eastern Argus* of September 4, 1838, printed a copy of a letter from Mr. Pierce to Mr. Clifford, dated January 5, 1835.

PORTLAND, January 5, 1835

BRO. CLIFFORD— My letters from every quarter—even some from Kennebec come in gloriously. Now will *you* give me one to the Governor containing your *good word* on the matter of Reporter. The three judges and old reporter are for me, and the Attorney General is necessary. *I write this friendly and familiarly because I believe your good wishes are with me.* Even Rogers has written me God speed. Will you, therefore, send me a letter to the Governor, saying my appointment will be, etc, etc, to you. Do write me what is the prospect of Maj. Haines Court bill.

Truly yours,

GEO. W. PIERCE

It is evident from the above that all enmity on the part of Mr. Pierce toward Mr. Clifford had been removed before the death of the former. Probably the matter would never have received any serious consideration had it not been for the fact that at this time Mr. Smith published extracts from certain letters written him by Mr. Clifford and Mr. Pierce. The whole correspondence was not printed, and the parts so given to the public were of a character to damage the reputation and standing of Mr. Clifford, had they been believed.

The *Argus* of this period is very condemnatory of Mr. Smith in this transaction. It accuses him first of attempting to play falsely the part of friend and counsellor of both Mr. Clifford and Mr. Pierce and later of proving untrue to the obligations of friendship by a total disregard of the

sacredness of private correspondence. However this may be, it is certain that as between Mr. Pierce and Mr. Clifford the whole matter was but a temporary misunderstanding which was later cleared away to the absolute satisfaction of both. Also the charge against Mr. Clifford seems to have had no effect upon the regard in which he was held by all his friends.

Mr. Clifford first took his seat in Congress in December, 1839.[1] His colleagues from Maine in the House were George Evans of Gardiner, Thomas Davee of Blanchard, Hugh J. Anderson of Belfast, Albert Smith of Portland, Benjamin Randall of Bath, Virgil D. Parris of Buckfield and Joshua A. Lowell of East Machias. All were Democrats except Mr. Evans and Mr. Randall who were Whigs.[2]

Methods of travel had changed since Mr. Clifford was a delegate to the Democratic convention in Baltimore in 1832. The American railways had begun to extend their connecting network over the eastern part of the country.

Tremont House Boston Wednesday
Nov 20—

My Dear Wife.

I was detained at Saco until monday morning & consequently did not arrive in this City until monday eve at 8 o'clock. I leave tomorrow afternoon in the 4 oclock train of cars for Providence having determined to go by the way of Stonington Ct to New York. Mr. Lowell & lady take the Worcester track to N–Y consequently they will fall behind me unless I tarry in N–Y— The Mass. delegation do not start until Saturday. I have concluded not to purchase a cloak the weather being rather comfortable— Albert Smith & family passed here yesterday— His family will remain in Massts. Caleb[3] need not attend to my Bank

[1] *Maine Year Book, Biographical Cong. Direct.*, pages 127, 128.
[2] *Biographical Cong. Direct.*, pages 522, 758.
[3] Caleb R. Ayer, brother of Mrs. Clifford.

Note—it is arranged— He may charge White & Maxwell $20.00 & give me credit for $1.00 for incidentals. They settled Board Bill—I am well.

Yours truly,

NATHAN CLIFFORD

Mr. Clifford had chosen a stormy period of our history in which to make his debut into Washington politics. He was not unmindful of the necessity of keeping his communications with his base well guarded.

WASHINGTON CITY. Jany. 22, 1840—

BARNABAS PALMER ESQ.

Dear Sir:

Your letter has been duly received. I am obliged & hope the favour will often be repeated. I shall always be pleased to hear from you upon any subject. Thus far I feel constrained to admit that you have reason to regard me as neglectful on the score of correspondence but hope you will pardon me when I assure you I have not been idle but have been laboriously engaged in the honest endeavour to qualify myself to participate with some hope of success, in the deliberations of Congress, I mean beyond a mere silent vote which has been too much the case of representatives from our State— Maine is entitled to her full share of influence here—but she cannot have it if her members surrender up the right of debate to the other states— A member may command great personal respect without entering into debate but it seems to me impossible that he can have the influence to which his state is entitled without meeting the bullies of the south and west upon the floor. I speak of a state whose voice is not heard at all— For my own part my mind is made up, I will try and God being my helper I will succeed— Leaving all consequences behind me, neither threats nor bullying shall deter

me. I will let them know that blows are to be taken as well as given— I allude to this not by the way of boast but by way of excuse for an apparent neglect— I am not unmindful of your—friendship or of its value—& hope I shall always be able to deserve it— In a few days I will send you my first effort— The *Globe* is publishing it in pamphlet. My friends here including the first officers of the government speak kindly of my beginning—for that I am thankful & will endeavor to improve next time— I assure you my constituents shall not be neglected for to them I owe everything & it is their interests & rights which I am sent here to sustain. I have thought this explanation due to an old & tried friend——

We are still engaged upon abolition & with little prospect of immediate disposal. Thus far every effort to agree upon a proposition in reference to it has failed— It is the object of the opposition to make up the issue upon this question in the Presidential campaign. Consequently the whigs of the [torn] & south occupy extremes for the very purpose of keeping the subject open & how long the public business is to be delayed by it I cannot tell— The South Carolina & Georgia delegations I hear are talking of leaving Congress. I think we may be able to devise some way of getting rid of it but really at present I see none— Mr. Adams is now making a most inflammatory speech. When he sits down we shall hear from the other side— Write often

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY March 26 1840

MY DEAR WIFE

I received your kind invitation to come home & should be very glad to do so if my duty would permit & will come if possible but fear I cannot— Mr. Adams has intro-

duced a resolution against "pairing off" as it is called which has not been acted on— "Pairing off" is where two members of opposite politicks agree to absent themselves for a certain number of days— You may well suppose I should be glad to see you but I fear attack while our boundary affair remains in so critical & uncertain a position. My colleagues will not consent for me to leave now— I am quite well considering that I have had no sleep for two nights of any consequence. The session continued all night Wednesday. You will see it in the *Globe* which I sent you today— If you do not see the *Globe* write me & I will send it. You will see I have spoken frequently though I have not made but one set speech. None but set speeches are reported at length. It is a tiresome life to stay here but I like the business of legislation. I am glad to hear that William Henry[1] is better. Enclosed some Beans. The Beet seed is from France—(Sugar Beet) If I do not come I shall send my small trunk by Mr. Anderson to Portland and he will send it up by stage— I will send the key by mail to you— I cannot write more after sitting 29 hours without food or sleep. I do not feel like writing. You must not [think] I do not wish to come home for I assure you I am as anxious to come home as you can be but it will not do for me to sacrifice my standing by leaving at this critical moment & I fear I shall be delayed until the Sub-Treasury Bill comes up & then every man must remain at his post. Upon that we are to have a full discussion in the House where it has not been much considered in years past— Upon that question I desire to speak if possible as no one from Maine has ever spoken upon it— Write as often as you can.

Your husband

NATHAN CLIFFORD

[1] William Henry Clifford, Esq., 3rd son of Judge Clifford. Editor of his father's decisions as Circuit Judge.

Washington City April 28, 1840

My Dear Wife

The mail has just arrived and brings no news from you or from any one at home—so I thought I would write a few words by the way of returning "good for evil" or attention for neglect— I am willing to admit that it belongs to me to write more frequently than you do and I do not mean to find much fault but hope you will write as often as possible— We are making slow progress here. Monday & tuesday our session continued more than thirty hours— I was present the whole time without repose or refreshment—though the reporter of the *Globe* by mistake has reported me at the head of the list which was taken into custody by the sergeant at arms & brought into the House & compelled to pay fines— This morning I corrected the error in a few minutes in the House & the reporter will make the correction *in the Globe* It was a vexatious mistake after sitting up all night & two days to be reported absent— How many shirts did I have when I left & how many sound collars— We have had some very warm weather— The gardner of the public grounds has mowed the grass in front of the capitol— In the fields the grass is more backward— I find my room very warm & too small for summer—. I shall be glad when Anderson comes back he is company when the House is not in session— I expect we shall sit till midnight almost every night till the session closes—so that all the spare time I have is from breakfast time till 12 o'clock & almost half the time I am on committee— If a member here attends to his duty in a manner to gain any credit he has no time to rove about & if he does rove about he cannot have any credit— I state these things to let you know how my time is spent—most of my letters to you are written during the session of the House when some one is speaking that I do not

desire to listen to— I should like to be at home a few days—

Your husband

NATHAN CLIFFORD

Although certain portions of the country were beginning to be connected by railroads and communication in the eastern part was somewhat easier, still one of the greatest problems presented to the legislators was how to make more ready the access to the frontier settlements, which were every day creeping further west of the Alleghanies.

The need of proper post roads and canals, and later railroads to these outlying districts had raised the question where the money to build them was to be procured. The state governments had, in many cases, embarked upon programs of extravagant appropriations for all sorts of highway construction which had resulted in an inability to meet maturing obligations. Speculation had been very active and labor and capital withdrawn from agriculture and locked up in transportation. Credit had been extended abnormally with the result that the bubble had burst in 1837.[1] Banks had suspended specie payments. By a system of high duties on imports it might be possible to create a surplus revenue so that the Federal Government could afford to assume the state debts and thus directly or indirectly pay for these so-called internal improvements. The same result might be accomplished by a distribution of the proceeds of the sale of public land among the different states.

The Democratic party had always been against a high tariff. They were also opposed to the paying of sums out of the Federal Treasury to defray the cost of purely local

[1] Martin Van Buren, *Am. Statesmen Series*, pages 308–9. Andrew Jackson, same series, page 378. McMaster, vol. vii., page 24 et seq. Von Holst, vol. ii., page 173.

work. They based their position on their accustomed plank of strict construction. They maintained that the Central Government was one of only limited powers, and all rights not expressly granted to it were reserved to the states. Inasmuch as there was no specific authority to the former to undertake to finance special enterprises within the limits of any of the latter, it had no such right. As the debate upon these matters would naturally arise when an appropriation bill was presented for passage, it is not surprising to find that the first important speech of Mr. Clifford reported in the Congressional *Globe* is on this subject.

While one may consider that the early part of the address has very little bearing upon the question at issue, it is still important as illustrating Mr. Clifford's method of attacking any problem. As has been said before his mind was not of the brilliant type. He did not have the ability in a comparatively few words to set forth an idea teeming with suggestiveness and originality. However, he was complete master of any subject upon which he chose to write or speak, for the reason that he made himself familiar with every side of it. In consequence, when he wished to express an idea he took the same road as he had used in acquiring his own information. He began at the beginning, and marched by careful stages through every possible phase or contingency. The result was that when he arrived at his conclusion, there was no point which had not been covered. This was true of all his opinions after he became Justice of the Supreme Court of the United States. A large part of Mr. Clifford's remarks are here quoted simply to convey a correct impression of the young Congressman's ideas upon the political questions of the day as well as his views on past events, as showing his reasons for the allegiance to the party of his choice.

Let the reader bear in mind that these are the words of

a man who had educated himself to a large degree. That in evolving his theories of the Constitution and the history of the formation of parties, Mr. Clifford had not had the benefit of the views of a highly trained college professor who in turn had been taught by one whose ideas had been tested in the crucible of long analytical and scientific research. When these facts are considered together with the speaker's age 37, it must be admitted that the production merits high praise.

After an introduction containing references to certain of his colleagues in the House, and a statement that the Federal party during the last war with Great Britain, had been guilty of efforts to excite the people of New England to open rebellion and resistance to the Federal Government, and had actually plotted a dissolution of the Union and establishment of a northern confederacy under the auspices of the British protection, he began with a history of the foundation of political parties in this country.

Mr. Clifford said[1]:

"The first organization of parties took place during the latter part of General Washington's administration.[1]...

"In their origin, these differences of opinion involved nearly opposite views as to the model and form of government which the exigencies of the time demanded, with reference to its operation upon the frame and structure of society, and its tendency to promote the individual happiness and prosperity of the people, and at the same time, to afford sufficient strength and efficiency to insure domestic tranquility and to provide for the common defense. The natural tendency of these conflicting views after the adoption of the Constitution, led their respective adherents to widely different rules of interpretation of the instrument itself in the application of it to the purposes for which

[1] See Report of Speech in Congressional *Globe*, vol. viii., page 471.

it had been formed. This gave rise to party organization, which, with slight modifications and occasional interruptions, has continued to this day. . . .

" . . . the master spirit and father of Federalism, Alexander Hamilton, was strongly inclined to the British system of government. . . . He distrusted the capacity of the people for self-government. . . .

" . . . It is impossible to misunderstand the scope and bearing of his remarks against the weakness and instability of Republican institutions. . . . While it is no part of my intention to derogate in the slightest degree from the merits of the honorable dead, I beg leave to say . . . that the sentiments so freely advanced by Hamilton are known to have been entertained . . . by very many of the leaders of the Federal party at the period of the adoption of the Constitution; and that they were openly acknowledged by the more honest and candid until their defeat, in 1800, in the election of Mr. Jefferson. . . .

"It is a well-known fact that needs no confirmation that the present Constitution was more the result of compromise, induced by the exigencies of the country at the period of its formation, . . . , than the exponent of the views of either of the two parties that were represented in that Convention. The mass of the people felt deeply the imperfections of the Articles of Confederation, and ardently wished for such alterations as would relieve them of the evils which they had experienced in consequence of them; but there was a wide diversity of opinion as to the character of alterations necessary to be made to attain that object. On the 17th of September, 1787, the present draft was agreed to. . . . Immediately after its publication it was submitted by Congress to the several States for ratification. . . . It is true that many of the Republicans opposed it, not because they were averse to a more perfect union of the States for certain specified

purposes—to regulate the commerce of the country and to insure the common defense—but because, in some respects, its internal powers were more ample, and in others less cautiously restricted, as they believed, than were consistent with the sovereignty of the States or the liberty of the people. They were jealous of the extent of power conferred upon the Executive, as conceding too much to the known partialities of their opponents, and they criticised with great severity the omission to provide a bill of rights for the security of the citizen. . . .

"It is undeniably true that some of the features of the instrument which most excited the fears and jealousy of those that desired as far as possible to preserve the authority of the States afforded the strongest inducements to their opponents to espouse its adoption, which they did for the reasons assigned, as well as from the conviction arising from the fact, then made evident in the discussion that immediately followed its publication, that no nearer approach to that system of national power to which all their efforts had been directed with earnest solicitude could ever receive the sanction of the mass of the people. The development of public sentiment on this point was so clear that the most barefaced advocates of monarchy yielded to the demonstrations of the voice of the people, and advocated the adoption of the Constitution. . . .

"The vagrant power to incorporate, which has so many advocates at this time in the ranks of the Opposition, though scarcely any two of them can agree upon its locality, was directly and solemnly refused a place in the Constitution. It was several times considered in one form or another but as often as it was proposed it was promptly voted down by a large majority of the States. The reasons assigned for the refusal were that the people in certain portions of the Confederacy were averse to a national bank, and if the power to incorporate should be recom-

mended it would obviously include the right to charter a bank, and that this would present an obstacle of a very dangerous character to the consummation of the general design. . . . The people never dreamed, during the discussion that ensued, that any such power would be found lurking in the provisions of the instrument they were called upon to sanction by their suffrages. But no sooner was it adopted than the Federal party true to their original design, claimed it by construction. The Democratic party denied it, and they deny it still. The opponents of this Administration, by whatever name they choose to call themselves, affirm it. This was the great point of division when party organization, in its more extended sense took place at the close of General Washington's administration with reference to the selection of his successors.

"The objects of parties underwent no change, but the system of operation was necessarily varied to the altered circumstances with which they were surrounded. All acquiesced in the new Constitution, but their principles remained the same as before its adoption. It now became necessary to fix its interpretation. Here they divided. The one party desired to confine its application to the specified objects for which it had been created; the other was equally solicitous to extend its provisions by implication, and to embrace the objects which they believed ought to have been included among its enumerated powers. The ostensible object of the latter, so far as any avowal of their intention was made, was to include the power to incorporate, with the view to the establishment of a national bank. . . .

". . . The struggle that ensued it must be admitted on all sides, was one for principle. The Bank, or Federal party, supported the elder Adams for reasons which I have before stated. The Democratic party supported Mr. Jefferson. The former succeeded by a majority of three

votes. That administration has been emphatically denominated 'the reign of terror.' The alien and sedition laws were among the tyrannical measures which served to awaken the people to a sense of the danger with which they were surrounded. The liberty of speech and the press was invaded under the pretense of affording protection to public officers against the strictures of party and the prevalent disposition to slander and decry the Government; rights heretofore held sacred were forgotten, like the dreams of the night, in the shameless prosecutions for alleged violations of this 'gag law,' and the most open and barefaced infractions of the social compact were perpetrated with impunity, until 'all confidence was lost in the midst of fear and apprehension.'

". . . In 1800, the success of the Democratic party was complete. The voice of the people triumphed over the slanders and falsehoods which had been heaped upon the candidate of their choice. Thomas Jefferson was elected President. . . .

"This glorious event was hailed with great joy by the friends of equal rights in all parts of the country as the harbinger of better days; and no one ever had occasion to say that his most sanguine expectations were not fully realized in the radical change of policy that ensued. The schemes for undermining the constitution were defeated, and the Government restored to its primitive purity. . . .

"The conduct of England toward the United States had been one uninterrupted course of aggression and violation of national faith. Jealousy and ill-will were the predominant features of her policy. She had on many occasions, and in the grossest manner, violated the treaty of peace. She had declined a treaty of commerce; she had impressed our seamen; she had instigated the savage tribes to tomahawk and scalp American citizens; she had stimulated the mercenary and piratical of all nations to prey upon our

unprotected commerce; and, in a word, 'she had insulted our flag, and pillaged our trade in every quarter of the world.'

". . . These measures were destructive to the rights and interests of the United States, and especially to the commercial class, who were in a great measure driven from the ocean and a lucrative trade, for no other purpose than to administer to the cupidity and malice of the 'mistress of the sea'; and yet, strange as it may seem, many concurred in the general design, while at the same time they called loudly upon their own Government to relieve them from the embarrassments which it produced. Parties were divided as to the causes of their distress; but all demanded redress, and condemned the aggressions, and none were more clamorous than the very men that subsequently opposed every effort of the Government in the most treasonable manner, to rescue our national interests from the ruin which must have ensued if no counteracting remedies had been adopted. . . .

". . . On the 22d of June, 1807, the wanton attack was made on the *Chesapeake* by the *Leopard*, in consequence of the refusal of Commodore Barron to submit to the claimed right of search, and to deliver up four sailors on board the former in pursuance of the iniquitous demand of the British officer. This raised the excitement to the highest pitch of indignation. All parties alike, the Federalists, as much as the Democrats, clamored for reparation, with just abhorrence of the insult offered to our national flag.

"The excitement was so great it was deemed impolitic and unwise to convene Congress until sufficient time had elapsed for reflection, and for the resentments of the public mind to subside. In the meantime, to quiet the alarm which very generally prevailed, and to protect the interests and honor of the country from a repetition of such flagrant

procedure within our own jurisdiction, the President issued the proclamation of the 2d of July, forbidding British vessels-of-war, in certain cases and under certain limitations, to enter or remain in the ports or harbors of the United States. This was a mere precautionary step to guard against similar outrages until Congress could be convened. The whole subject of our relations with Great Britain was submitted to Congress at the extra session on the twenty-sixth of October, following. The embargo became a law on the 22d of December, 1807. No man dared risk his veracity or his intelligence by affirming that this measure was not adopted to meet the complaints of the Federal merchants, and to prepare the way for a redress of their grievances so vividly set forth in their memorials. . . .

"After they had formerly resolved 'that the suffering armed vessels to station themselves off our harbors, and there to stop, search, and capture our vessels, to impress, wound, and murder our citizens, is a gross and criminal neglect of the highest duties of Government, and that an Administration that patiently permits the same is not entitled to the confidence of the people,' when that Administration, in the mildest manner possible, attempted to seek redress of the very wrongs which they had so feelingly portrayed, the leaders of the Federal party, in spite of their boasted patriotism, turned round and denounced the Administration which they had just before reproached for its supineness, and, in the violence of their opposition actually coalesced with the common foe to defeat and paralyze every effort to redress the same grievances of which they had complained. . . .

"It has already appeared that Mr. Jefferson and his party were obliged to abandon the embargo to save the Union from the treasonable designs of the Federal party in the eastern States. Non-intercourse was substituted on

the 1st of March, 1809. This act met with little or no better reception. It was at once denounced as having been dictated by French influence, and as a measure of hostility to England. The cry of French influence and southern influence was the principal weapon of Federal warfare in the North throughout the period of which I am speaking. . . .

"It soon became evident that hostilities must ensue, as all peaceful efforts to obtain justice had been exhausted without any success. All parties again demanded redress, and none were more clamorous than those that subsequently opposed the war with so much violence and rancor. . . . The Federal party in Massachusetts were more rancorous and uncharitable in their opposition than in any State in the Union. They declared, in the form of a legislative declaration, that 'the war was founded in falsehood, declared without necessity, and its real object was extent of territory by unjust conquests, and to aid the late tyrant of Europe in his view of aggrandizement. . . .'

"They withheld, as far as it was within their power, the means for supporting the Army and Navy; they discouraged enlistments; they prevented loans, and actually devised a regular system for exporting specie out of the country to cripple the Government by depriving it of the sinews of war; and when victory crowned the efforts of the brave, they resolved that 'it was unbecoming a moral and religious people to express an approbation of military or naval exploits.' This relentless and heartless opposition was kept up with unabated fury down to the victory at New Orleans and the subsequent news of the treaty of peace. Peace was concluded on the 24th day of December, 1814, but the news did not reach this country until after the battle at New Orleans. The Hartford Convention assembled on the 15th December, 1814, and adjourned

to meet at Boston in the following June, which meeting never took place, but was turned over 'to the receptacle of things lost upon earth.' The victory of New Orleans and the treaty of peace made the triumph of the Democratic party complete. No language can describe their joy. The Federalists were overwhelmed, as well by the successful termination of the conflict, as by the knowledge of the odium which it attached to their treasonable opposition. . . .

"The next eight years succeeding the war have been called the 'era of good feeling,' during which the Federal party endeavored to wipe off, by every species of obsequiousness, the disgrace of their past misdeeds, without any change of their cherished principles. Party organization was abandoned, and of course the animosity of feeling which had long prevailed subsided. These 'no-party times,' as they have been called, continued, at least in New England, until the election of John Q. Adams by the House of Representatives. . . . The old party feeling was aroused to a very high degree of excitement at the ensuing presidential election; the mass of the Democratic party were embodied again under the banner of Jeffersonian principles, in opposition to an Administration which commanded the confidence and respect of the tariff and bank party in every quarter of the Union. . . .

"I can speak with the utmost confidence when I say that within the limit of my own acquaintance it is an undeniable fact that the masses of the old Republicans then living were the warm and zealous supporters of the second election of President Jackson, and continued throughout to approve of the principles and measures of his administration, the distinctive features of which were a strict construction of the Constitution, opposition to a national bank, the reduction of the tariff and the receipts of the Treasury, as far as possible, without injury to the

great interests of the country, to the wants of the Government upon the strictest principles of accountability and economy, and an undeviating hostility to constitutional appropriations upon local objects of improvement. That the Federal party opposed this Administration, its principles and policy, with unrelenting and uncompromising hostility, is susceptible of the clearest demonstration, if the fact does not stand confessed. . . .

"The additional fact that I wish to establish I presume no one will deny, and therefore does not require proof, but may be fairly assumed; and it is, that the supporters, principles, and policy of the present Administration are identical with the one that preceded it. It may be said that it is in contemplation to substitute the Independent Treasury system for the collection, safe-keeping, and disbursement of the public money, in the place of the State banks; but this does not afford the distinction required. The State banks were selected as an experiment. It has signally failed through the misconduct and bad faith of the banks themselves; and it is well known that after the suspension of specie payments in 1837, and the refusal of the banks to pay over nearly thirty millions of the public money, which had been collected from the people, and deposited with the banks for safe-keeping, General Jackson, no less than Mr. Van Buren, became satisfied that no further confidence could be reposed in them as depositories of the public treasure, and both alike approved of the new recommendation that was made, and which, I trust, before this session terminates, will become the law of the land.[1] One accusation of the Opposition is, therefore, fully sustained, and will be cheerfully admitted; that Mr. Van Buren is 'treading in the footsteps of his illustrious predecessor.' I hope

[1] Sub-Treasury bill was passed at this session. It was bitterly opposed by the Whigs, but is probably the greatest achievement of Van Buren's Administration.

gentlemen will not back out of this charge because it may be convenient to do so to avoid the consequences of an issue they wish to escape. . . .

"The principles of parties at the present time will now be considered with a little more particularity, but with as much brevity as possible. It has already appeared that, throughout the period of party organization, they have been separated by an impassable gulf in their views and feelings upon the construction of the Constitution. In the progress of events other questions temporary in their nature have largely contributed to the bitterness and acrimony of party strife, which at times has threatened the existence of the Union itself; but as these temporary causes of irritation pass away, parties are seen to settle down upon the standard of principle upon which the division first took place. Such is the case at the present time, in spite of all the efforts in certain quarters to conceal it. The present contest is one for principle, and its dividing line is bottomed upon the construction of the Constitution as leading to different measures of policy in the administration of public affairs. . . .

"The soundest principles of economy, as well as of justice, are opposed to a high tariff. It is a perversion of the taxing power which was confided in Congress by the Constitution for the purpose of providing for the general welfare of the whole Union, and not for the benefit of the few individuals at the expense of the many. Any system, therefore, which imposes burdens upon the body of the people to confer favor upon a limited class of individuals or corporations is a perversion and infraction of the grant to lay taxes, because it is not to provide for the general welfare of the whole, but to administer to the cupidity and avarice of the few; and, therefore, any exaction for the sole benefit of one branch of industry, at the expense of all others, is a germ of Federal construction not authorized

by the Constitution, the whole tendency of which is to pervert our republican institutions from a state of purity and simplicity into a splendid system of national power, in subversion of the rights of the States and of the liberties of the people. A strict constitutional limitation of the taxing power is the only safeguard against corruption and extravagance. Hence the sleepless vigilance of the Democratic party in their opposition to an unauthorized tariff. The aim and objects of its projectors will be hinted at hereafter. Again: no one pretends that there is any express grant to authorize the appropriation of national treasure upon local objects of improvement. This, too, is based upon construction, and is claimed by implication. The Democratic party oppose it upon constitutional grounds, as well as on account of the injustice and inequality of its operation upon the different sections of the Union. It is a gambling, log-rolling system, calculated to corrupt the deliberations of Congress, and to foster divisions and heart-burnings among the several States of the Confederacy.

"On this point I desire to be distinctly understood. It is not the danger of exasperation of sectional feeling that constitutes the essential ground of the opposition of the Democratic party to this system, for that has reference to its expediency; but it is regarded as the exercise of an unauthorized power, contravening the Constitution and infringing upon the sovereignty of the States. There are very strong objections to it on the score of expediency. In addition to what has been said, it leads to unnecessary and exorbitant taxation, by creating new objects of appropriation, without number or bound, except in the discretion of Congress. It has been called the sluiceway of the tariff system, and I do not know of a more appropriate name. The friends of the tariff have uniformly supported it, for the reason, undoubtedly, that the drain from the Treasury, which it occasions, would further their designs.

In all its consequences it is productive of evil, without any counterbalancing good. Again: the power to collect money to any amount from the people, and distributing it as a matter of favor to the States, or to corporations, is a species of despotism of the most odious character. The projected scheme of distribution finds no favor with the Democratic party. They have resisted it, and will continue to resist it, in any and every shape and form in which it may be presented, whether under the pretense of donation or under the disguise of the assumption of the State debts.

"The policy to be pursued in relation to the public domain demands the most solemn consideration of the community and is likely to excite very much of public attention for many years to come, both on account of its bearing upon the finances of the country and the principles involved in the various schemes that have been projected to divert the accruing profit of the annual sales from the national Treasury. The distribution system is the most formidable and the most dangerous of any that has been presented, on account of the bait which it offers to the indebted United States, no less than to the manufacturers who see that if it prevails it must lay the foundation for a very great increase of taxation, and contribute very largely to their interests and designs. The mode of collecting, keeping, and disbursing the public money is an important feature in every system of national policy. Taxes must be levied in some way, and, to a greater or less extent, in all Governments; and the money must be collected and disbursed in one currency or another. The policy of the Democratic party in this behalf is well known, though it has been shamefully misrepresented in all its objects and effects.[1] It is true that Government dues will be prospectively collected in gold and silver, and that the payments

[1] See Jackson's specie letter.

to the Army and Navy and all the public creditors will be made in the same currency, as they ought to be, and must be, if we are to have a Government of the people and not of the banks; but the States will be left to regulate their own institutions in their own way; and it should not be forgotten that the specie that the Government collects is immediately distributed among the people, and goes into the general circulation. The effect of this measure will be to infuse into the circulating medium of the country, a larger proportion of the precious metals, and to contribute in no small degree, the means to secure the convertibility of bank paper in the several States by preventing the exportation of specie, while the process of collection and payment will distribute it among the people, where it is less exposed to the grasp of the speculators and brokers at the moment of pecuniary distress, and by the natural laws of trade it will flow back to relieve the banks in the hour of peril and enable them to maintain a specie basis.

"Another, and a very important consideration at this time, is the subject of abolition. A sincere attachment to the union of the States is among the cardinal doctrines in the creed of Democratic Republicanism and ever has been from the foundation of the Government to the present time. It has already appeared that the cry of southern influence was a prominent topic of Federal warfare in the North, in the days of Jefferson and Madison, to excite the prejudices of the North against the South, and the seeds of political abolition may be seen in the proceedings of the Hartford Convention, where they propose an amendment to the constitution, 'so that Representatives and direct taxes shall be apportioned according to their respective numbers of free persons, excluding Indians not taxed and all other persons.' The supporters of this Administration in the North, with a few exceptions, are utterly opposed to all the mean and incendiary schemes of political Abolition-

ists. They are determined to maintain inviolate the compromises of the Constitution in good faith and under all circumstances. I mean not to say that the Whig party are all Abolitionists, but most of the Abolitionists are Whigs; and some of their political leaders are incessant in their efforts to make political capital out of the natural prejudices of a free people against the institution of slavery, and also out of the past proceedings of Congress touching the disposition of abolition petitions. The Abolitionists in the district I represent almost to a man vote the Whig ticket. If, at the time of my election, I received one vote from that quarter, it is unknown to me. I do not believe that any such case can be found. Having said thus much, I will only add on this point that many of the Abolitionists are honest and upright men, and sincerely believe they are engaged in God's service, without the remotest intention of doing anything to hazard the peace of the country or the Union of the States. . . ."

Congress adjourned July 21, 1840. This was the year of the Presidential election. The Democrats had re-nominated Mr. Van Buren and the Whigs were running General Harrison with the campaign cries of "Hurrah for Tippecanoe" and "Hurrah for the log cabin and hard cider."[1] Mr. Clifford was a candidate for re-election against Daniel[2] Goodenow. The candidates for Governor were Kent and Fairfield as in 1838. The issues of the campaign were various, though the Whigs adopted no party platform. The sub-treasury bill, the tariff, expenditures of money for internal improvements, slavery and the personalities of the two candidates all played important parts.[3] Van Buren's personal habits were such as to cause criticism by those

[1] Hatch, *History of Maine*, vol. i., pages 238–240.

[2] *Argus*, August 1, 1840; *Advertiser*, August 18, 1840.

[3] *Martin Van Buren* (*American Statesman Series*), pages 379, 394. Wilson, vol. iv., page 86.

who maintained he had failed to live up to the simplicity becoming a Democratic president. It may fairly be said that his popularity was not sufficient to carry him through the period of hard times then afflicting the country, particularly in the face of the hysterical enthusiasm manifested for General Harrison.

The defeat of the Democratic nominee was a great disappointment to Mr. Clifford. He was a strong Van Buren advocate and would have preferred to see him the party standard bearer in 1848 instead of Mr. Polk. The national failure was mitigated in Mr. Clifford's case, however, by his own re-election. The State of Maine went "Hell bent for Governor Kent," thus making the fact of Mr. Clifford's success all the more outstanding. The Whig party increased their representation in Congress from Maine from two to four,[1] breaking even with the Democrats.[2] The "Hell bent" should be explained, however, inasmuch as on the official returns neither candidate had a majority and the election went therefore to the legislature. It should be noted that Mr. Clifford's former opponent in the state House of Representatives, Mr. William Pitt Fessenden, was sent to Washington at this time from Portland as a Whig.

The short session of the 26th Congress met December 7, 1840, and has been called "a jubilee of the Whigs."[3] It may be passed over with very little notice so far as Mr. Clifford's relations with it are concerned and his first term as Congressman brought to a close by the few following characteristic letters.

[1] The Maine Representatives were: Benj. Randall, Whig, of Bath; Nathan Clifford; George Evans, Whig, of Gardiner; Elisha H. Allen, Whig, of Bangor; W. P. Fessenden, Whig, of Portland; N. S. Littlefield, Democrat, Bridgton; Joshua A. Lowell, Democrat, of Machias; Alfred Marshall, Democrat, of China. *Maine Register*, 1920–21, page 213.

[2] Hatch, *History of Maine*, vol. i., p. 241.

[3] Von Holst, vol. ii., page 406.

WASHINGTON CITY Jany 14 1841

MY DEAR WIFE

Your kind letter of the inst reached me last evening— I am greatly obliged for the interest you manifest about my health— I was indeed quite sick— Tuesday Wednesday & Thursday I was barely able to ride to the House— fortunately the House adjourned over from Thursday to monday during which time I should not have [been] able to attend—but on monday I grew better & now am quite well— Mr. Anderson took good care of me & as soon as I recovered he was attacked with the same complaint but in a more aggravated form & is now confined to his bed with a congestive fever— I think however he is out of danger & will be up in a few days— It has been quite sickly here though all are recovering. The complaint is very much like a severe cold with great pressure of blood upon the head occasioned by bile in the stomach I suppose— I took medicine pretty early & thus escaped it— I shall be glad to hear from you often—

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Jany 16 1841

MY DEAR WIFE

The time cannot wear away more slowly with you than it does with me—about seven weeks more, a long time— is it not? The weather here has been very uncomfortable the sun has not been seen for a long time indeed for about ten days. We have no snow but rain & mud abundant— & the whole face of the earth is immersed in clouds and fog— My health is good— Mr. Anderson is recovering. He is able [to] sit up to day. Has been very sick—yesterday I dined with the President[1] & saw the Plate and *gold*[2]

[1] Van Buren.

[2] These were a source of criticism. Van Buren, page 394, above.

spoons— Thirty six members of the House were present— This is first time I have dined with him—a pleasant company no ladies. The members who have ladies were invited the day before— V. D. Parris[1] has gone to Boston after his wife— Mr. Lowell[2] of Maine gave a party the other day in honor of his election— twenty-five members were present. As a colleague I was licensed to attend—Lowell is quite happy— Nothing new here— I hope to receive another letter soon—

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Feb 1 1841

MY DEAR WIFE

I have received the children's very kind letters & read them with much satisfaction— I am delighted to hear that they are steady in attendance to school & their studies— I will remember them— The time will soon pass away for my return but I think my stay will be a short one for an extra session is undoubtedly agreed upon by the whigs— If you have not purchased a quantity of tea you may omit it—till I return—of course purchase what you want—England has subdued China so that tea will fall—

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY Feb 4. 1841—

MY DEAR WIFE

In four weeks from today I presume I shall be ready to start for home. Although two thirds of the period of my absence has passed away yet the remaining time seems

[1] Vergil D. Parris, Rep. to Congress.

[2] Joshua A. Lowell, Rep. to Congress. His election had been unsuccessfully contested.

long— If you will not charge me with an affection of low spirits I will inform you that all agree here that the winter has been the most uncomfortable one for fifteen years— It has not been very cold but rainy—drizzling rain & mud. We have had no mail for two days & I have not written for several days— We are still discussing the treasury note bill & it is out of my power to say when the discussion upon [it] will terminate. I sent you a day or two since three packages of flower seeds— I hope you will preserve all the numbers of the Globe as I shall want them next summer especially if I have to take the Stump. Wise[1]—Alford,[2] J. Garland[3] etc etc have come out against the policy of the new administration. Some think the opposition will be frightened out of calling an extra session of Congress— I think not—but we shall know more about it in a few days when General Harrison arrives. Mr. Anderson is again quite unwell so as to be confined. My health is pretty good—

Your husband

NATHAN CLIFFORD.

WASHINGTON CITY Feb. 11 1841

MY DEAR WIFE

For the last three days I have been in the chair & have had but little time to write— The Bill which I had charge of has passed & I am at leisure—

Nothing new—I have not forgotten the gloves but have concluded not to send them by mail but will bring them when I come— What color do you want?—I shall leave here the fifth of March

Yours truly

NATHAN CLIFFORD

[1] Rep. from Va., later became a Tyler Democrat.

[2] Rep. from Ga.

[3] Rep. from Va. See *Biog. Cong. Directory* under different names.

Washington City Feb 16 1841

My Dear Wife—

I have been rather negligent in writing lately but I shall soon come myself & will make a thousand excuses if necessary. Gen Harrison is here. I have seen him. He is an imbecile old man, a mere child. We are making progress in public business—I am well— Write.

Yours

Nathan Clifford

A few days after the date of the preceding letter, Mr. Clifford wrote to his wife that he would not stay to the inauguration of General Harrison. The installation into office of the despised Whig was more than the ultra Democratic sensibilities of the young Congressman could bear to see. Therefore, he started home as soon as the active duties of the session ended.

CHAPTER V

Representative to Congress (*Continued*)

PRESIDENT HARRISON called a special session of the 27th Congress to meet May 31, 1841. He did not live to see this body convene. He died of pneumonia a month after his inauguration, and John Tyler, the Vice-President, and a states-rights man of the strictest sort succeeded him.[1]

The election of President Harrison was in many respects a remarkable event. The Whigs were without doubt the natural successors of the Federalists. The country had shown decisively its rejection of the latter's doctrines, and in order for a candidate of such a party to succeed, it was necessary to masquerade his real objects under a veil of beliefs more becoming to the sentiments of the growing republic.

Therefore, the campaign cries of "hard cider," and "Tippecanoe and Tyler too" had been designed for the purpose of turning public attention aside from the real issues and concentrating it upon the picturesque and catching characteristics of the head of the ticket. The success of this deliberately planned scheme was a great political achievement. Harrison found himself chosen President with a majority of twenty-five in the House, and six in the Senate.

When the balloting was over and the results assured, the victors laid aside their assumed costumes and started on the program of the accomplishment of their real desires.

[1] Hatch, *History of Maine*, vol. ii., page 309.

They intended to repeal the Independent Treasury Act, and to establish a new national bank, to inaugurate a system of higher tariffs, and to effect[1] a distribution among the states of the proceeds of the sale of the public lands. All these measures were directly contrary to the principles of the Democratic party.

President Tyler was not in sympathy with the Whig program as a whole. He had been placed on the ticket for the purpose of securing votes from the southern states. When confronted with a Whig Congress his position was a most embarrassing one.[2] He had always been opposed to a United States Bank as unconstitutional, and when the Legislature of his state had instructed him to vote for one, he had resigned, rather than obey. Therefore when the 27th Congress passed a measure chartering such an institution Tyler refused to sign it. When later a more moderate bill was drawn, the object of which was disguised under the name of a fiscal corporation, this also was vetoed. By the end of the special session, all the cabinet selected by General Harrison and continued in office by President Tyler had resigned, with the exception of Mr. Webster, who remained only until important negotiations with England regarding the northeastern boundary should have been brought to a successful conclusion.[3]

To arrive at a better understanding of Mr. Clifford's letters, the following description of the Washington of this period may be read with interest.

It was a small, straggling, overgrown, and ill-kept city of twenty thousand inhabitants. The streets were full of grass and dirt. Cows were even pastured in some of the principal streets. The houses were cheerless-looking. Pennsylvania Avenue was paved with dust or mud, according to the weather

[1] Wilson, *History of American People*, vol. iv., pages 91–93.
[2] Wilson, vol. iv., page 94.
[3] Hatch, *History of Maine*, vol. ii., page 310. Wilson, vol. iv., page 96.

that prevailed. On a windy day immense clouds of dust swept over the street, sometimes making it hard for pedestrians to see their way. On a rainy day the avenue was a bank of thick black mud. One of the few picturesque sights was the old capitol. The Washington of that period was a disgrace. Few Congressmen brought their families to live with them, and it was the custom for them to club together, hire a house, and contract with the landlord or a caterer to provide the table. These clubs were called "messes," and they were more important and exclusive than the name would seem to imply. Many famous measures were planned at "messes" and their champions appointed. It was the invariable rule that no member of a mess should invite an outsider to dinner without having obtained the permission of his associates. Strange to say refusal rarely gave offense.[1]

BOSTON May 24 1841

DEAR WIFE

I arrived safely here friday evening & I shall leave today (Monday) for New York by the Worcester route— Mr. Littlefield has arrived & will remain in Boston till tomorrow & take some articles for me not now ready. I am going on to secure seats— It is very warm here today. Send me Tyler's letter if it contains anything of consequence Be careful of your health— I am well

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY May 27 1841

MY DEAR WIFE

I arrived here yesterday (Wednesday) at eleven o'clock A.M.— Have had a very pleasant passage—have got a very good seat— I think one of the best in the House— Have pretty much concluded a contract for board at Mrs. Kennedys where I boarded the last Congress. Messrs.

[1] "Life and Times of Hannibal Hamlin," C. E. Hamlin, page 75.

Littlefield & Marshall of Maine will board at the same place—I am well—when you receive this write— Members are arriving every hour. There is a great turmoil about seats. I have looked out for all the democratic members from Maine— The weather is quite warm here & I hope it is at Newfield

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY 30 1841

MY DEAR WIFE

I wish Lewis would put my Linseed oil in the cellar & the chaise into the chaise house & have the chaise & harness oiled—my health is better—much better— I am preparing a speech but may not speak for some time— I intend to make a free trade one this time. Hope to hear from you— Has George bought you a Beef

Yours

NATHAN CLIFFORD

WASHINGTON CITY June 5 1841

MY DEAR WIFE

The House adjourned over from Thursday to monday— & thus one week of the session is spent for no purpose—the whigs have a very strong majority & yet I have a hope they will not be able to do much injury—

I have not heard from you since I left but hope to in a day or two— I am severely afflicted with the tooth ache today & did not sleep any of consequence last night—if I find no prospect of relief I shall have it extracted— I want to hear about your health— Has Charles gone away to school—& who is to keep our school—?— I would write more but my tooth ache is so bad I can not— Write upon the receipt of this—

Yours truly

NATHAN CLIFFORD

Washington City June 14 1841

My Dear Wife

Yesterday was a very important day for the democracy The resolution adopting the rules & providing for the appointment of committees was reconsidered which places the House back where it commenced— The whigs divided and gave us the majority— It has been very warm here but is a little cooler to day (Thursday)— One of our mess Judge Cross is sick & not likely to recover— I am well—my tooth ache has subsided & I feel quite cheerful. Hope to hear from you often

Your husband

Nathan Clifford

Washington City June 20 1841

My Dear Wife

I have written Charles & to day received a letter from him— & also received yours a day or two since—you will see by the Newspapers I have spoken often, & intend to do so—My health is pretty good. Mr. Littlefield has been quite sick but is better— The weather is pretty warm— I have sent you a Directory by which you will see the names of our mess— Charles has written me about the colt and calves— Write as often as you can— What makes our *friends* discontented— Give me particulars I want to see you & children very much.

Your husband

Nathan Clifford

Washington City June 24 1841

My Dear Wife

Several days have elapsed since I wrote you & in the meantime I have not heard from you— We are getting along slowly with the business & the doubt I think increases whether the whigs will be able to carry their

measures through. It seems to be agreed on all hands that the Session will be short— I hope so as I am very anxious to come home— The weather is very warm today—my health is good & thus far by keeping myself pretty still & quiet I have not felt much danger from the heat— How do you get along. Does my baby go to school & does he study any—does he sleep in Pa's bed?— How does vegetation get along? In a few days I will send you some money. Make yourself comfortable—

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY June 27 1841

MY DEAR WIFE

Sabbath day is a long dull day in Washington— It amounts to this get up in the morning at half past six do nothing till eleven except to eat breakfast—go to meeting at eleven & half the time hear a fop preach two hours who is not fit to act comedy at a theatre—then go home eat dinner if you can find any & then do nothing till bed time —However I have written twenty letters today & now I will close up the day with one to you— I wonder if you will close up the day with one to me—remember the golden rule do as you would that others should do to you. Perhaps I have not recited it correctly but I have given the sentiment—

I am well except a slight tooth ache this afternoon— the first for a week or two— The weather is much cooler today—several showers— We have had Raspberries. Strawberrys are gone— What is the state of vegetation at home. I want to hear from the convention at Augusta— Write as often as you can & I will do the same. I have written quite often I believe—have I not?

Your husband

NATHAN CLIFFORD

Washington City July 6, 1841

My Dear Wife

Yours is duly received & read with infinite satisfaction for I confess to you that during the last spring I was much alarmed lest your complaint should end in a consumption — I hope you will still be careful of yourself & avoid all exposure to bad weather— It was my opinion that the warm weather would agree with you & hence it was that I was inclined to have you come with me but as I could not know certain I gave it up— I now wish you had come — You wish me to inform when I shall come home— It is impossible to say, I fear not till the 20th of August but will make no stay I will warrant you after adjournment— My speech is written out & will be published in a few days —when I will send you one. I took a very bad cold the night after concluding my speech by sleeping with the windows up in my room— After speaking for a considerable part of the two days session my blood was warm & the wind I suppose blew directly on to my bed—at all events I took a severe cold—though it is some better. I am in no danger & shall be well I have no doubt in a day or two. Glad all things look well. Suppose Lewis takes care of garden. I must stop, as Raynor of North Carolina is replying to my speech. More in a day or two—

Yours truly

Nathan Clifford

Washington City July 8 1841

My Dear Wife

I hope to be able to send you one of my speeches Saturday. Rather best speech I ever made & more than that I will not say— Let it be judged of by others— My cold is much better & health good— I think you cannot complain of me for want of letters though there may not be much in them. Under the new Gag

rule of the House we may close the business of the Session earlier than I supposed— The rule is an outrageous one but I have this consolation about it & this only I shall be able to get home earlier—

Your husband

NATHAN CLIFFORD

On June 29, 1841, Mr. Clifford spoke against the bill to distribute the income[1] received from the sale of public domain among the different states. He maintained that by this measure a deficit would be created which the protectionists would seek to overcome by a larger duty on imports, most of which were the necessaries of life. That the whole scheme was but a means of gaining a higher tariff. He insisted that the act as drawn was in no sense land legislation, but related simply to the paying of cash out of the National Treasury, a proceeding which could be accomplished properly only "in consequence of appropriations made by law." There could be no distinction between any wealth in the Federal coffers dependent on the sources from which the same was derived. Therefore, if Congress, as the law-making power of the country, had the right to appropriate public funds, the whole question was, had it the authority under the Constitution to make a gift in this manner to the different states, the admission being made that no relation of debtor and creditor exists between the general and local governments?

Mr. Clifford then proceeded under three heads to dispose of the argument that there was this connection between them because of the conveyance of the land by the latter to the former, by proving that the bill itself negatived such affiliation. First, the cession was made by the original states while the distribution was to be made among all, including those latest admitted. Second, the operation of

[1] Congressional *Globe*.

the bill was confined to income arising from land sales, whereas if one owes another, all the assets of the first are subject to the payment of his debts. Third, the gradual flow of the money was to be stopped in case of war, which does not suspend the obligation to pay one's creditors.

He argued that no express authority was granted Congress by the Constitution to make gifts to the states, and that none could be implied from the power to sell the public domain.

As to the contention that the land was ceded in trust by the different grantors for the purpose of the payment of the Revolutionary debt, and that this being discharged the *res* should revert to the states as beneficiaries, he advanced three refutations. First, the deeds of conveyance were absolute and not conditional. Second, according to a well established rule of law by which the trustee may reimburse himself out of the trust fund for all expenses legitimately incurred in looking after the same, the United States still had millions owed it. Third, by far the greater part of the territory was acquired by treaties with foreign powers and not from the states, and therefore if any one was to be considered a beneficiary it was the individual citizen.

He then proceeded to show that a distribution of money to the different commonwealths, to be used by them in paying their debts, would work a hardship. The local governments raised their revenue by direct taxation. A reduction of their obligations would make unnecessary their present high assessments and result in a benefit to those having property,—the rich. The deficit in the Federal Treasury caused by the measure before the House could be made up, however, only by higher duties on imports such as tea, sugar, etc., articles which are now considered necessaries and are consumed by the poor in larger relative quantities than by the well to do. Therefore

the final outcome would be a relief of the wealthy to the disadvantage of their less financially fortunate brothers.

The speech was considered by the writer to be "rather best ever made" by him. To the present day reader, however, it has not the interest of that on the appropriation bill, lacking as it does the historical element so conspicuous in the former.

WASHINGTON CITY July 11 1841

MY DEAR WIFE

Enclosed I send you my card & that of my colleagues— There is so much aristocracy here we could not get along decently without bending to this foolish habit of using printed cards— I hope you will not think I have become a dandy for I assure you it is not so— When among Romans you must bend a little to their customs & be despised— The ceremony of form is much increased here in these Federal days— We poor democrats stand a poor chance at best & would be wholly excluded if we did not bend a little to majority. This is Sabbath day when I think most of home—wife & children— Write often

Your husband

NATHAN CLIFFORD

WASHINGTON CITY July 30 1841

MY DEAR WIFE

I forgot to reply to that part of your letter relating to the female temperance association recently organized in our village—as you inform me— I think you have formed a very sensible conclusion in regard to it & I entirely approve of your determination not to become a member. I should be very sorry to learn on my return (if I am ever permitted to leave this place) that it had become necessary for you to join a temperance society or any other society of *moral reform*— I do not believe the females of our village need any such reformation—they are as correct a circle of

females as is to be found anywhere— & need no such reformation. As for myself I have not tasted spirit or wine since I left home & do not believe I shall during the Session but I am quite sure I shall join no society. I have no objection to such societies in the abstract but they are very likely to extend their influence beyond the pale of good example & moral suasion which is the extent they ought to go—to ulterior objects— The members are apt not to be satisfied with being good themselves & with endeavours to reform others but they are often particularly anxious to have it understood that they consider themselves better than their neighbours & expect to be so considered by others— It is to this ulterior influence of such societies that I object & my objections are strengthened by every days experience— No news—

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY August 3 1841

MY DEAR WIFE

We are now engaged upon the Bank— It has been decreed that the Bill shall be taken out of committee on Friday & undoubtedly will pass on Saturday—
It is said today that we may adjourn on the 17—' inst— I hope so—if not before & yet I do not think it is certain when we shall adjourn— I am well

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY Aug 10 1841—

MY DEAR WIFE

I will not tell you when I shall be at home because I do not know but think *now* I will be that way sooner than I expected when I last wrote—

Upon my honor I believe the President will veto the Bank Bill & save the country from the ruin of that monster—
If the veto comes I think we shall break up soon—
Your husband

NATHAN CLIFFORD

WASHINGTON CITY Aug 18 1841

MY DEAR WIFE

I have delayed writing you for several days most sincerely hoping that I should be able to inform you when I might be expected home but I cannot tell—appearances indicate that the session may continue two weeks— Mr. Lowell & Marshall have left on account of sickness. Mr. Littlefield and myself the only democrats from Maine dare not leave— I have sent several packages of speeches books etc under the frank of the clerk—my trunks are packed ready for a start—you must be patient I will come as soon as possible— The President has vetoed the Bank — The Bankrupt bill passed both houses to day— It is odious in many of its provisions but I fear the President will sign it— I send you the Age to day which contains a neat compliment— My health is pretty good— I keep close. Have not attended a party or any public place since I have been here— Attend closely to my public duties— The federal Newspapers assail me but the democratic press sustains me nobly— I will tell all about it when I come home. It is not safe to write too much as letters are sometimes intercepted. Write immediately after you receive this— I shall be here. This is my birthday so I thought I would write you & let you know I had not forgotten you— James Libby has been here. He says Nathan has been sick. You have not written any thing about it. The papers speak of drought— How is it at

Newfield. I think we may adjourn Monday week the 30 of this month but cannot tell so long before hand

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Aug 22 1841—

MY DEAR WIFE

I keep writing though I have little to communicate that will be interesting to you. I have made so many conjectures as to the close of the session all which have proved erroneous that I begin to think it would have been much better if I had said nothing about it—all I can say in excuse is that I have at the different times given the best opinion that could be formed— It is impossible now to say with certainty when we shall adjourn—no day is fixed — I think it will be Monday the 30th but the whigs swear they will not leave till they make a Bank of some sort & I am sure it will take them till December & then they cannot accomplish it— They say if Democrats leave they will send the Searjeant at arms after them. I dare not leave at present—you must not blame me I want to come but cannot— Write often— if anything happens so that I leave here your letters will be immediately returned to me—so write and let me know how you are — I expect the whig press will assail me with great bitterness for my course upon the Bankrupt bill which was laid on the table after my amendment was adopted but by caucus management bargain and corruption has since passed & an odious law it will be when it is understood. The weather is very warm almost beyond endurance— I thought yesterday I was going to be sick but am much better to day—have attended meeting. The whigs have got up a new Bank Bill in the House & call it a Fiscal corporation— the name is a deception it is a Bank— It cannot become

a law— Good luck and good health to you. I will come as soon as I can

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Aug 24 1841

MY DEAR WIFE

Once more I attempt to write with the view of indicating a time when I may be expected home— I have named so many times that I am ashamed to name another lest it should turn out as heretofore in my being compelled to disappoint you— It is not my wish to tantalize you, God forbid. At one moment it appears the session may close soon & the next that it will continue forever— I have now a faint hope (only a faint hope) that I may be able to leave here on the Sabbath next & if so it is possible that I may be at home next tuesday night providing the monday morning's train should reach Boston in season to take the morning cars to Portsmouth. Having said so much now allow me to say it is all uncertain as the land bill still hangs in the Senate. It will come to this House. I cannot leave till I vote on that—if nothing new occurs I will leave as soon as I vote on that measure— I am well and very desirous to hear from you— & to see you—

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Aug 28 1841—

MY DEAR WIFE

It is now determined that I cannot leave tomorrow— & of course shall disappoint you once more— The chairman of the Committee on Public lands has just informed me he shall not report the senates amendments to the land Bill until monday— I cannot leave till that is disposed of— Having made a speech upon that subject &

received some credit for it, if I should run off now all the newspapers would assail me. Forty members have spoken to me this morning upon the subject of my leaving & objected so strongly I dare not leave— I will not fix another time lest I should disappoint—all I can say is I will come as soon as possible— Nothing shall detain me one moment after the important business of the session is disposed of— I have packed my trunks twice with the view of leaving but it is in vain. I cannot come till the session closes— I would with all my heart if I could without prejudicing my reputation in which you and our children are as much interested as I am—but I cannot, so do not blame me—be a good girl. I will come as soon as possible. The Revenue or tariff Bill is not disposed of in the senate. If the tax on tea coffee sugar molasses & salt should open for discussion in this House I must stay and see to that—so that it is impossible to fix a day when I can come— Yours very truly

NATHAN CLIFFORD

The special session of the 27th Congress adjourned September 13, 1841. Owing to the conflict between them and the President, the Whigs, in spite of their majority had not been able to accomplish much along the line of their pre-arranged program. They had passed the land bill, had repealed the sub-treasury act, and voted to borrow twelve million dollars at 5% interest,[1] but having been unable to carry through a measure chartering a new national bank their work lacked all constructive efficiency. Inasmuch as no fiscal agencies had been provided or authorized, the way in which the revenue of the country was to be handled was left entirely to the discretion of the treasury department, without guidance or restraint of law.[2]

[1] *U. S. Statutes at Large*, vol. v., page 438.

[2] Wilson, *History of the American People*, vol. iv., pages 96–7.

CHAPTER VI

Representative to Congress (*Concluded*)

The 27th Congress came together according to statute December 6, 1841. Already local elections had begun to turn against the Whigs.[1] For the present, however, their majorities in the House and Senate were secure. Having failed in many of the measures they had hoped to enact at the special session, they now bent their efforts to the passage of their tariff. The treasury was empty, as the loan previously authorized had failed, only half the bonds having been sold. It was plain that the revenue of the government must be increased.

It had been provided in the compromise law of 1833 that the rates should be gradually reduced until they reached a uniform level of 20% which result would take place in the ordinary course in 1842.[2] The act distributing among the States the proceeds of the disposal of the public lands also stipulated that if the duties on imports should be raised above 20%, its own operation would be automatically suspended.[3]

Mr. Clifford had prophesied that lacking the money accruing from these sales, the income of the country would not be sufficient to meet its expenses without an increase in the tariff. His forecast had been verified even sooner

[1] McMaster, *History of the People of the United States*, vol. vii., page 50. Wilson, *History of the American People*, vol. iv., page 98.

[2] Wilson, *History of the American People*, vol. iv., page 97.

[3] Von Holst, *United States*, vol. ii., page 454. *United States Statutes at Large*, vol. v., page 454.

than he expected, and as a part of the Whig plan of 1842, it was proposed to do away with the section of the land bill which rendered null the provisions of the same under the above conditions, thus violating the agreement entered into at the special session. If this measure could be carried, its proponents not only would have accomplished their purpose in turning over large sums of money to the states, but would still be free to boost the rates as much as they pleased without disturbing the working of their previous enactment.

The opportunity to call the attention of Congress to the fulfillment of his prognostications was taken advantage of by Mr. Clifford in a speech against the tariff.[1]

He emphasized the broken faith contained in the projected repeal of part of the public domain act and referred to the promises made by the Whigs at the time of the passage of that law. He said that he was against any tariff measure until the monies ensuing from land sales were restored to the Treasury. He said even with the distribution provision stricken out he was opposed to the bill, but was willing to vote for a system of revenue to be collected from duties on imports graduated to the standard of an economical administration, and judiciously distributed upon foreign importations, excepting certain articles of prime necessity: so that the burdens of taxation might fall as near as possible, in just proportion, upon all classes of the community according to their ability to contribute. He was not in favor of free trade in the sense of the entire abolition of the impost system, for this would make necessary a scheme of direct taxation, in order to furnish funds. He was willing to protect the American manufacturer, but no more than any other group of men.

He considered the proposed scale of income and expendi-

[1] *Congressional Globe*, 2nd Session, 27th Congress, page 669.

ture to be far above what he believed was "the standard of an economical administration." He preferred ad valorem to specific duties as a fair schedule of the latter was subject to be disarranged by the first rise or fall in the foreign market. It is interesting to note the care with which he undertook to prove that duties on imports are a burden upon the consumer. It had been contended in the past by the friends of protection that the foreign producer pays the tax. Mr. Clifford, with characteristic thoroughness, showed the absurdity of such an argument, and explained that in any case where an increase of duty on an article was followed by a drop in cost, there was a reason for such result entirely outside of and disconnected with the tariff.

He said: "The leading causes which influence . . . prices are: 1, Currency; 2, Demand; 3, Supply; and 4, Cost of Production. Now, take the case of the fall of prices in the manufactured articles of Great Britain from 1824 to 1830. Was it produced by the American tariff of 1824 and 1828? Certainly not. The Bank of England suspended specie payments in 1797, and remained in a state of suspension until 1823. The bank circulation of Great Britain, in 1815, was $287,250,000, and continued in that inflated state until the near approach of the period of resuming cash payments in 1823. The redundancy of the currency had elevated prices of property, and especially of manufactured articles, far above their natural level." He then showed that the end of inflation, coupled with the close of war on the continent and the consequent increase in production, as well as the diminishing cost of the same, owing to improved methods therein, had been the real cause of the falling prices of the articles mentioned.

He showed conclusively that the effect of a duty on imported goods must be to increase the price of all goods of the same class to that extent, no matter whether of

foreign or domestic manufacture, since the imposition allows the home producer to add the amount of the tax to his former price.

He stated that the majority of his constituents were opposed to a high tariff for the reason that they believed it to be a system of plunder to enrich the few by taxing the labor and industry of the whole though some men were deceived by such phrases as "protect American labor" or "foster American industry" and "encourage domestic manufactures." He maintained that though the Whigs came into power with promises of retrenchment, none of these policies had been or would be fulfilled. That the bill before the house provided for greater revenue than the legitimate needs of the government required and that such a law necessarily paralyzed commerce, destroyed trade and reduced the price of agricultural products.

Mr. Clifford then proceeded to show by statistics the disastrous results of the whole system upon Maine's shipping industry and upon foreign trade, proving as an incident thereto that Great Britain bought more of us than we of her. He made it clear that high duties make low prices of agricultural products and high costs to the farmers; that they affect the laboring man more injuriously than any other class for the reason that prices are raised before wages, and as soon as the latter begin to go up in consequence of the increase of the former there is immediately a new demand for greater protection. He exploded the theory that big pay spells prosperous workers, for if living is more expensive, greater money income may have even smaller purchasing power.

In reply to the argument that manufacturing villages constitute an enlarged market for the farmer, laborer and mechanic who should therefore be willing to submit to the inequalities of the system, he demonstrated that any such

gain was more than offset by the loss caused from enhanced prices; that such contention was but a repetition of the English defense of their corn laws. It amounted to an insistence on the part of the magnate that by force of artificial legislation all other persons shall be constituted customers for his benefit, and be compelled to purchase his goods at a figure advanced in consequence of the imposed duties which prevent importation. Why not protect other classes in the same way? What would the result be? As nations cannot buy of us unless we purchase of them, all foreign commerce would cease. Thirty years ago infant industries might have needed government help, but they certainly do not require it now that they are full grown. The bill was then but an attempt to secure a perpetuity of special privileges at the expense of interests of more general importance.

The whole theory of protection, he said, is wrong. It does not elevate the laboring man, it degrades him. Our manufacturer needs no assistance. The then existing depression in business was due to the world conditions, expanded currencies and a false and vicious system of credit. Patient industry and steady pursuit of some honest employment would soon put an end to all distress, but relief would not come by increasing the burdens of taxation. England had tried such a cure and failed.

The speech is in some respects a masterly exposé of the fallacies of the hothouse system of forcing business by the use of a stimulant, each application of which renders necessary a further and greater use of the same invigorator, till the commercial world is as dependent on it as is the drug addict upon his needle. It should be read by all opponents of a tariff.

The following letters give a good idea of the writer's life at this period.

Washington City. Dec 6 1841

My Dear Wife

I arrived here safely on Saturday evening but had no writing materials yesterday & could not write you—I had a pleasant ride across the Sound—the water was as smooth as a mill pond. When I got to New York it commenced raining but I kept on in the cars & was not troubled. I am still at the tavern here. My friends are much disappointed that I did not bring you. Hope you arrived home safely. The House is about to be called to order. I will write you again this evening. Write often & let me know how the children are. I am well

Your husband

Nathan Clifford

Washington City Dec 12 1841—

My Dear Wife

One week has passed away & we have done nothing worth mentioning. I have made one speech for which the newspapers compliment me. It was an off hand effort I shall not write it out you will see a short sketch in the *Globe*. . . . One of these days I will make a better . . . I attended church today—rather lonely though the house was full. I do not like my boarding house quite so well as the old one. . . . Our committee will be announced tomorrow. I expect the speaker[1] will put me in the worst place he can as I gave him my mind in full the other day in debate—never mind I will be after him—Write

Your husband

Nathan Clifford

Washington City Jany 1842

My Dear Wife

Today being the anniversary of the 8th of Jany—I thought I could not do a better deed that to write to you &

[1] John White of Kentucky, *Biog. Cong. Directory*, page 878.

the children & let you know that I have not forgotten you — I attended a great party at the Russian minister. I never attended before—

Your husband

NATHAN CLIFFORD

The "party" at the Russian embassy, or at all events, one during the same session, is described by Hon. William Pitt Fessenden in his correspondence in such an amusing way that a portion of the latter's letter is here quoted. The experience must have been novel to the young country Congressman from Maine.

When I ascended the steps there stood a man in uniform with a chapeau, whom I took at first for an officer waiting for his friends, but soon found he was the porter. Entering, we passed through the hall in which were some six or eight more gentlemen in lace but they were mostly colored gentlemen, who bowed very obsequiously, and pointed the way upstairs. Ascending, we found another personage of the same description who announced us to Mr. Bodisco, who was stationed at the entrance of the small room over the entrance. My name was announced as Mr. Pleasant, which, being highly appropriate, I permitted to pass. Moving on through the rooms, we found Madame stationed at the farther end of the farthest, and on giving our names to a gentleman who stood by her, were introduced, bowed, and fell back. I astounded some of our good people here this morning by assuring them gravely that I took the porter for Bodisco and the other servants for the whole line of foreign ambassadors, and accordingly went bowing from the hall door to the entrance of the reception room, being much astonished when I got there to find that the introduction was yet to come.

Well being in, let us take a look at the good people assembled. Mons. B. was strapped in lace and glittering with orders,—beruffled, bepadded, bestiffened, wigged, mustachioed, and whiskered,—a short, thick, squat fellow, but civil

and well bred. His wife was simply dressed, but glittering in jewels, well put on and exhibiting a bosom which attracted more admiration than all of them, an exceedingly fine looking woman,—decidedly surpassing in beauty any one of her guests, so far as looks go, fitted to grace any rank, and of her looks alone, had I an opportunity to judge. The Secretary and divers others were there, but no one seemed a lion, for there were too many of them.

WASHINGTON CITY Jan 1842

MY DEAR WIFE

You have done pretty well on the score of writing lately, I hope you will continue to do as well— Nothing new here. The weather is very pleasant. I am well— Business progresses slowly. I think the session will be long— We are engaged upon the Bankrupt law. I think the House will repeal it. What its fate will be in the senate I cannot say.

Yours

NATHAN CLIFFORD

The bill referred to in the above note was passed at the special session and described by Mr. Clifford in one of the letters quoted in the last chapter as "odious" in many of its provisions. It had been enacted in response to the cries of distress arising from the disordered financial state of the country caused by the over-speculation and suspension of specie payments mentioned above. The House repealed the measure but the Senate stood firm. The act was done away with, however, at the next meeting of Congress in answer to urgent appeals from all parts of the nation.

WASHINGTON CITY May 16 1842

MY DEAR WIFE

Nothing new to write— The weather has been rather cool though I believe there has been no frost— I acci-

dently left my window up during the night & took cold & have a tooth ache not very severe otherwise well

I learn that there are a good many candidates for my place— I shall not make much effort upon the subject but leave the whole matter to my political friends— I hope to hear from you often. Being in the chair upon the Navy Bill I shall be closely confined for a time— It is expected that Stanley & Wise may fight though the latter is under Bonds to keep the peace.

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY—June 3, 1842

MY DEAR WIFE

I received Nancy's letter yesterday & was much gratified to learn that you are all well— I had written Nancy just before the receipt of hers & therefore direct to you— I judge from her letter that you are very industrious— She says you have so much work to do you cannot write — I will not scold any till I come home & then we will arrange things so that you may have a little more leisure — Nancy seems to suppose from the *Globe* that I may get home by the 15th of June—but that motion did not prevail— A resolution fixing the 25th of July as a day of adjournment was moved in the senate yesterday & I understand there is some hope that it may prevail & if so I think the House would concur. I shall vote for it as it is the earliest day we can get & if we do not vote for that I fear they will keep us till Sept— One third of the members would be willing to stay the whole year or rather to let Congress sit for they will not stay in their seats half the time— I believe I have not missed one vote— I was sick one or two days but no vote was taken I think during that time. Since that period I have been in my seat every moment during the session of the House—

The duels which were talked about have all blown away & everyone is laughing at southern chivalry— These bullies have no courage to spare— Mr. Wise is a brave man let him be what he may in other respects— When the difficulty between him & Stanley first took place it is said that Stanley's wife wanted her husband to fight & said she would be his second if he could not find a better one but when she found that Wise was ready she began to cry & whine & beg her friends to interfere— Stanley's friends made the first advance & the matter is settled they having agreed never to speak to each other—

Try & write occasionally unless your work is very pressing—

I hope you will not misunderstand me for really I am only laughing at your excuse. It is positively worse than none. Don't you think so?— Come now, lay aside all excuses & write as often as possible— I have written so often without an answer that I have much difficulty in thinking of anything to write— It is much easier to write in answer to one received.

Yours truly & sincerely

NATHAN CLIFFORD

The persons referred to in the last letter were Henry A. Wise,[1] later Governor of Virginia, and at this time representative from that state, and Edward Stanly, member of Congress from North Carolina. The former had been the challenger. Maine had been greatly stirred in 1838 by the death of her congressman, Jonathan Cilley, who had been shot and killed in a duel by William J. Graves of Kentucky. Therefore any news about such matters were absorbed with great interest by all. Wise had been Grave's second, and had incurred considerable

[1] Wise, *Life of Henry A Wise*, page 80 *et seq.*, *Nat. Cyc. of Am. Biog.*, vol. iv., page 372.

odium in the north by his connection with this disgraceful affair. He was later openly upbraided by Sumner in Congress on account of it. He had engaged successfully in several duels before and therefore, apparently, Stanly considered him too much of an opponent. As a corollary to the Stanly-Wise quarrel, the Hon. Reverdy Johnson became partially blind. One of the would-be contestants was practicing in Johnson's yard, when the latter, to show his skill, picked up a revolver and shot at a tree. The ball rebounded in such a way as to strike him in the head, putting out one of his eyes.

It has been already stated that Mr. Webster had remained in the Tyler cabinet for the purpose of settling the Northeastern boundary. England had sent Lord Ashburton to this country to conclude a treaty. The two men had arrived at an agreement which established a conventional line far different from that of 1783, but not very unlike that drawn by the arbiter in 1831. The result was a considerable loss of territory to Maine, although an indemnity was paid to her on this account.[1] It would seem that such a compact was in practical accord with the suggestions of the committee of the legislature on which Mr. Clifford had served. However, the reduction in the area of his home state presented too good an opportunity to attack an opponent, to be passed over by a politician of Mr. Clifford's ability. Therefore the whole subject was given full attention by him in a speech to which the Portland *Advertiser* applied the word "rave."

Many other Whig newspapers attacked Mr. Clifford for his attitude on this question, and also for his stand against the tariff. It is easy to imagine the pleasure which such articles afforded him. Praise from the press of his opponents would probably have made him feel badly. Abuse from them was his enjoyment

[1] McMaster, vol. vii., pages 275–7.

Congress adjourned August 31, 1842 and assembled again December 5th of the same year.[1] This session was the last during which Mr. Clifford was to be a member of that body. The elections of 1842 had swept away the Whig majority in the House so that in the following year the Democrats were to have sixty-one more votes than the former.[2] The latter were thus jubilant. Under such circumstances nothing of great importance could be expected to emanate from the assembly. We may pass over this period without pause except to say that Mr. Clifford experienced a very severe illness during the early part of 1843, which came near ending fatally for him.

WASHINGTON CITY Gadsleys Hotel
Sunday morning Dec. 4 1842

MY DEAR WIFE

I arrived here safely last evening—in pretty good health some cold— No accident except in passing from Kittery to Portsmouth in a waggon it broke down & I was thrown out but not injured, only bruised a little upon the shoulder. I am well now— I shall write often— I think by what I hear that I shall board at the old place—

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY Dec 6, 1842

MY DEAR WIFE

I have taken a boarding House with Mrs. Hamilton with whom I boarded last year—she has a new House. My room smokes badly. Unless it can be made to draw I shall be obliged to leave & get another place. A mason is coming tomorrow to try— We have a large mess all members— no senators— I am boarded a little cheaper than usual.

[1] *Biographical Congressional Directory*, 27th Congress.
[2] Wilson, vol. iv., page 98.

Of course I shall stay unless the chimney smokes too bad — I mean to spend as little as possible—

I took a bad cold when I took off my flannels but it is better— Marshall, Littlefield, Lowell, & myself are all in the same House & our rooms on the same floor— Write and let me know how you get along & the children. Tell Charles to remember my advice—

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY Dec 7 1842

MY DEAR BRO

I have received one or two letters lately & have not found time to reply— I embrace the earliest moment when business does not command my attention to drop you a line— I have made arrangements to place George on the SS Libbey place—it is a fine piece of land— He has repaired the House & I think is disposed to try to get a living by work. I got him a yoke of oxen & have assisted in part to pay to winter them— Have aided him to a little money— & he has your mothers claim upon Gillpatrik who will furnish him with corn & grain. So much for George— Calebs case was not much better & in some respects worse— I have settled up all his debts except yours & Towles—& put him once more upon his legs— I have paid & given my Note for him for twenty two hundred dollars— I had to go to the Bank & Get $700 to pay such as could not be delayed. Upon most of the rest I have a year— It is a great debt—few brothers in this wicked world would do as much as I have done for Caleb but I want to see him prosper— I think he will try hard to do well & there is nothing to prevent— Towle promises not to call on him at present. Of course he is independent. He was the most grateful man I ever saw—he says if God spares his life I shall be paid— I

have just got settled. Will write you again soon— Write me as often as you can & do not think hard because I do not write oftener— I write as often as I find time— Give my respects to your family & Mrs Ayer

Yours truly

NATHAN CLIFFORD

WASHINGTON CITY Tuesday March 14, 1843

MY DEAR WIFE

I am obliged to disappoint you once more— I am still in my room though I have the promise of the Dr that I may go into the Parlour tomorrow— He says if I am prudent & careful I can leave with safety for home on saturday or monday provided the weather is fair— If it is a fair day tomorrow I mean to ride out in the middle of the day— I feel much better, as though I was really getting well— Albert will stay & go to Dover with me— I have had a pretty severe time Hannah, but I trust in God it is chiefly over— I have thought more of you & the children than myself— I will tell you all when I come— I shall not write again unless I find I am doomed to a further disappointment— Your husband

NATHAN CLIFFORD

The Congressional Election in Maine had been postponed from 1842 to 1843. This course had been made necessary to accommodate the new apportionment under the census.[1] By this act Maine's representation in the lower house was reduced from eight to seven.

The first district Democratic Convention was held at Limerick, August 2, 1843. Mr. Clifford was a candidate for renomination, but was defeated, after several ballots, by Joshua Herrick.[2] This contest occurred during the

[1] Hamlin, *Life and Times of Hannibal Hamlin*, page 75.

[2] Portland *Argus*.

Anderson-Kavanagh fight over the governorship, an account of which is given in the following chapter. As Mr. Clifford had always been associated with the Anderson-Fairfield faction, it is quite likely his lack of success may be attributed to the work of the Kavanagh men.

As we shall see, this failure to be returned to Congress had an influence upon Mr. Clifford's life very different from what he expected. It was without doubt one of the causes which led Polk to select Mr. Clifford as attorney general. The President thus hoped to cement together the two factions of the party.

The following extract from the account of the proceedings of the convention, taken from the Portland *Advertiser* of August 9, 1843, is amusing:

> Mr. Clifford kept himself in some corner in the tavern till the nomination was made. I then saw him. Malice and revenge were stamped indelibly on his visage in characters too legible to be erased. It is said by the knowing ones that the dishonorable course which he had pursued in relation to his nomination has nearly used him up. So may it be. They ought to have known him before.
>
> An Eye Witness.

CHAPTER VII

Attorney General

In his memoir of Nathan Clifford printed in the Maine Historical Society collections, Honorable James W. Bradbury says:

In 1846, a few months after my election to the senate, the office of Attorney General of the United States became vacant by the resignation of Mr. Mason, and my feelings of friendship for Mr. Clifford prompted me to make the effort to obtain from the President his appointment to that office. Upon consultation with my colleague, Senator Fairfield, he with Judge Rice and two or three other gentlemen united with me in the effort.

This was undertaken without the knowledge of Mr. Clifford and the appointment was made without any solicitation or action on his part whatever.

Honorable Hugh J. Anderson was one of the "two or three other gentlemen" who interested themselves in Mr. Clifford's behalf. The following is a copy of a part of Mr. Anderson's letter to President Polk under date of October 4, 1846.

Upon my return from an absence of some weeks from home, I learn that some of our political friends in this state have suggested for your consideration the name of Honorable Nathan Clifford for the vacant post of Attorney General. Not knowing whether a selection has yet been made nor how far it may comport with your inclination to come to Maine for that functionary, I cannot omit to express my cordial concurrence in the views which have been communicated from the State in favor of Mr. Clifford.

The reputation possessed by Mr. Clifford in this State both as a lawyer and a politician would render the appt. in the judgment of his friends judicious and fortunate and the extreme popularity he enjoys would undoubtedly give the adm. increased strength.

I have known him long and intimately and do not doubt that you would find [him] a safe and able counsellor.

In reply to a letter of Senator Fairfield, President Polk wrote:

(Private)

Washington City Sept. 30th, 1846.

My Dear Sir:

I received in due season your letter of the 7th instant, in which you request me to appoint the Honorable *Nathan Clifford* of Maine, Attorney General, of the United States— I have received also similar letters from your colleague in the Senate (*Mr. Bradbury*) and from two or three other leading gentlemen in Maine.

I have but little personal acquaintance with *Mr. Clifford*, but from his public character and the opinion expressed by yourself and others of his political orthodoxy and his qualifications to discharge the duties of the office and presuming too that he accords with me in opinion, and approves the course of my administration—and that he will heartily cooperate with me in conducting it, I have this day addressed him and invited him to accept the office of Attorney General. Your opinions and wishes have had much weight with me in coming to this decision.

In the event of Mr. C's acceptance it is desirable that he should repair to Washington and enter upon the duties of the office with as little delay as possible. *Judge Mason's* health is not very good—and he finds the labors of the Navy Department as much as he can well bear: Since his appointment as Secretary of the Navy he has acted also as Attorney General ad interim. The sooner his successor as Atty Genl takes charge of that office, the sooner of course he will be relieved from its

duties—and be enabled to devote his whole time to the Naval service.

I have addressed my letter to *Mr. Clifford* to *Newfield Maine* If I have mistaken his Post Office, will you do me the favor to inform him—that I have written to him & addressed my letter to NEWFIELD.

I am with great respect
Your friend & Obt-Servt.

Hon. John Fairfield
Saco
Maine

JAMES K. POLK

President Polk's diary under date of September 26, 1846 contains the following entry:

Before the Cabinet adjourned, I remarked to them that as the Hon. Franklin Pierce to whom I had tendered the office of attorney Gen'l had declined to accept it, that I must select some other person for that office. I informed them that the Hon. Nathan Clifford of Maine had been recommended to me, but that I had very little knowledge of him and did not know his qualifications as a lawyer, and added that I did not desire to bring any one into the Cabinet who would be exceptionable to any of its members, as I desired to preserve the harmony which had hitherto prevailed in our councils. All the members present expressed their entire satisfaction with Mr. Clifford, but none of them were able to inform me what his legal attainments were. They knew him to be a man of talents and to stand high in Maine, but they had not sufficient knowledge of him as a lawyer to speak with confidence. At my request the Secretary of the Treasury agreed to consult Judge Paris of Maine confidentially (the 2nd Comptroller of the Treasury) as to Mr. Clifford's standing in Maine as (and) especially as to his legal attainments. The Cabinet adjourned & in about an hour the Secretary of the Treasury returned and informed me that he had seen Judge Paris, who informed him that Mr. Clifford was a man of very high standing; that he had filled the office of attorney Gen'l under the State Government of

Maine for several years, and that his attainments as a lawyer were respectable. I sent for Mr. Appleton of Maine (ch. Clk. in the Navy Department) and consulted him confidentially as to Mr. Clifford & his legal attainments. He gave me about the same account of him which Judge Paris had given to the Secretary of the Treasury.

Let this next letter speak for itself.

Copy

NEWFIELD—Sept 14, 1846

Private

HON. JAMES W. BRADBURY
DEAR SIR

Yours of the 4th inst came to this place during my absence— I embrace the first moment since my return when by the course of our mails I could reply, having reached home on friday last after the departure of the eastern mail— You do not experience such difficulties & without this explanation might misinterpret the delay—

I saw Mr. F. a few moments last Monday when he broached the subject of the Attorney Generalship to me and acquainted me with your views, in which he seemed to concur— After what reflection I could give the subject at the moment I told him that I would leave the matter to you & him to act as you thought best with this understanding that I had not made myself a candidate (as I had not thought of the place, & of course I could not be understood as in any way waiving my chance for the senate when that time comes round . . . I fear it is rather late to start a candidate & what is more I have been some what too long in private life— If the democracy of the State or even of this district had given me one half the chance which has been extended to others that might be named I could safely aspire to that place or even a better but as things are I cannot help feeling some misgivings. Perhaps it is best to make the effort— It can do no hurt—

It may do some good by showing that we can be united on one man—& thereby place our State in some better condition hereafter. *Possibly it may succeed*—though I think not—

I *thank you* for the kind & generous sentiments of your letter— We shall do our whole duty here in regard to the election

Very Respectfully
Your friend
NATHAN CLIFFORD

Quoting further from the President's Diary:

THURSDAY, 1st October, 1846.—I omitted to state in yesterday's diary that I addressed a letter on that day to the Hon. Nathan Clifford of Maine, tendering to him the office of Atto. Gen'l of the U. S. in place of Judge Mason, appointed Secretary of the Navy: (see letters to Mr. Clifford & to the Hon. John Fairfield, U. S. Senator from Maine, by whom among others Mr. Clifford was recommended).

THURSDAY, 15th October, 1846.—I received this morning a letter from the Hon. Nathan Clifford of Maine, accepting the office of Attorney General of the United States in place of Mr. Mason resigned, which I had tendered to him in a letter addressed to him on the 30th ultimo. Mr. Clifford states in his letter of acceptance that he will be in Washington in a day or two after his letter would reach me, ready to enter upon the duties of the office. He may therefore be expected in a day or two.

SATURDAY, 17th October, 1846.—The Hon. Nathan Clifford of the State of Maine, to whom I had tendered the office of Attorney General of the United States, called this morning. I handed to him a letter which I had addressed to him enclosing a copy of a letter which I had addressed to each member of my Cabinet in March, 1845, when I was about to organize my administration (see letter Book). I had a conversation of some length with Mr. Clifford. I addressed a note to the State

Department, directing a commission for Mr. Clifford as Atto. Gen'l of the U. S. to [be] prepared. The commission was sent to me as directed, when I signed it and delivered it to him.

This being Cabinet day I invited Mr. Clifford, though he had not taken the oath of office, to remain with me in Cabinet during the meeting to-day, & he did so.

WASHINGTON CITY Thursday Eve
8 oclock Oct 15 1846

MY DEAR WIFE

I have just arrived here safe & in good health—as the weather has [been] somewhat unfavourable I thought you would wish to hear of my arrival early— I am at Coleman's National Hotel— When I have a moment to spare I will give you an account of my journey— Remember to each of the children & accept my best wishes for yourself

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Oct 17 1846—

MY DEAR WIFE

I have just returned from the Presidents—having accepted the office of Attorney General. Thus you see we are separated for sometime—my lot will be the hardest— you must pray for my success— I shall devote my best energies to the performance of my duties— If industry & integrity will ensure success under the blessing of Providence I shall be successful. My health & spirits are good— Remember me to the children & all our friends & neighbors—

I have not the franking privileges— The Heads of Departments have to pay their own postages like other citizens—

My best wishes *attend* you in all your cares & anxiety

Your husband

NATHAN CLIFFORD

WASHINGTON CITY Oct. 25, 1846

MY DEAR WIFE

Finding myself alone I embrace a moment to fulfill my promise of writing once a week—which I fear I shall hardly live up to & yet I shall not omit it when opportunity occurs to scribble even five lines.

My journey here was the most unpleasant I ever experienced—though I am not aware that I experienced *any very great danger*. We were nearly 2½ hours crossing Providence River, while the wind blew a hurricane. When we reached Stonington Capt Thayer decided of his own accord not to go out, which saved all danger— The next morning it was calm & pleasant. I have taken rooms at *Mrs. Latimers* where the President boarded when he first came on while the White House was being repaired—I think I have a good House—Albert Smith of Maine is here— The duties of my office are arduous & will employ my whole time but I have full confidence that I can meet every reasonable expectation. Of one thing I am certain if industry & integrity can ensure success under the blessing of Providence I may expect to be successful. My health is good & thus far my reception here has been every thing which my warmest friends could desire.

The Newspapers speak of my returning home for my family—you know we talked that over & settled what we would do—I am satisfied we settled it right. The people here would bankrupt us if we went to Housekeeping here. I want to see the children already but such feelings must not be indulged & so I banish them. I expect George Franklin will forget me but I shall not forget him or any of the others. Be careful of your health & do not fail to keep a girl to assist you. It will enable you to preserve your own health & also to watch more carefully the children.

Far & near the Newspapers have treated me respectfully at least such as I have seen.

I have got my clothing from Boston—it is very good—I am now well provided for in this respect. I shall not write much about politicks lest one of my letters should be intercepted.

Accept my best wishes for yourself & children & remember me to all our friends

Your husband

NATHAN CLIFFORD

The democracy in Maine must be held together at all hazards. Apparently, Mr. Clifford was not aware that Mr. Anderson had been one of his sponsors.

WASHINGTON CITY Oct. 23, 1846.

HON. HUGH J. ANDERSON

DEAR SIR

I have accepted the office of Attorney General of the United States & entered upon its duties. If industry & integrity can ensure success under the blessing of Providence I may hope to be successful. I hope to enjoy your friendship in my new & responsible situation. It came unsought by me & quite unexpected—and certainly was well meant towards Maine whether worthily bestowed or not which perhaps the future will disclose—my time will be much employed for a few months in the performance of responsible & urgent duties & yet I shall be gratified to hear often from my democratic friends in Maine & to respond to their favors as fully as possible. The recent elections have come in badly & yet it occasions no alarm here. The prevailing opinion is that time & a steady purpose will right all things . . .

I still hope that Maine may be saved & that our friends will learn the importance of union & harmony. If Maine is lost the result can only be ascribed to our feuds. We have a decided majority if the members of the party will

but unite—many of the reasons which occasioned our division refer entirely to the past and grew out of a difference of opinion in regard to men; in all such matters why may we not adopt some well considered steps to a reconciliation! It is not my purpose to make any advance of this kind except in concurrence with my old & long tried friends & now only suggest the point for consideration. Will you give me your views upon the subject. It seems to me *starting now & taking things as they are* unless something is done we are in danger of losing the State at the next Presidential election. What say you? If you visit Washington this winter I hope to see you often & to renew & cement the friendship so long subsisting between us, which I fear was slightly marred by the events of the last session of our Legislature.

I am with Great Respect
Your Obt Servt
NATHAN CLIFFORD

In his history of Maine, Mr. Hatch seems to show surprise that a lawyer of whose attainments only the word "respectable" could be used should have been appointed attorney general of the United States.[1] The explanation seems to lie in the fact that the act was an olive branch. Mr. Clifford had been a Van Buren man instead of a Polk adherent. The split in the Democratic ranks over the Presidential candidate had been wide, and Polk was anxious to bridge it as soon as possible.

This division dated back to the year 1843 when Ruel Williams resigned as United States Senator. The legislature then elected Governor Fairfield in his place. This made necessary the withdrawal of the latter from the gubernatorial chair, to which by constitutional provision ascended Edward Kavanagh, President of the Senate, a

[1] Vol. ii., page 328.

wealthy merchant of Nobleborough, of Irish birth and a Roman Catholic.[1]

Mr. Kavanagh was a supporter of Calhoun for the presidency in 1844 and desired to be elected to the position he was holding by succession. The Democrats of the "line," if the term may be used, were in favor of Hugh J. Anderson of Belfast for the latter office. In fact it is probable that an agreement had been reached by the friends of Fairfield and Anderson that they would unite to send the former to the Senate and to make the latter Governor. The religious question unfortunately entered into the contest with the usual attendant bitterness. Anderson received the nomination. He represented the group in the party which favored Mr. Van Buren for head of the federal ticket.

In spite of the temporary rift the Maine Democrats entered the national campaign fairly well united. Still some of the defeated faction attempted to continue the fight, though Governor Anderson tried to distribute his appointments in such a way as to satisfy both sides.

Van Buren seemed assured of victory in the convention. A majority of the delegates were ready to vote for him. However, the adoption of the rule making a vote of two-thirds of those present necessary for a choice put an end to his hopes. He had lost strength during the months preceding the date of meeting by a letter[2] containing a statement to the effect that he was opposed to the annexation of Texas which had revolted from Mexico and set up a separate government, recognized by Jackson in 1837.[3] Tyler had negotiated a treaty of union with Texas which was awaiting ratification by the Senate.[4] The South was anxious to join Texas to the United States, because more

[1] Hatch, vol. ii., pages 315, 316–319.
[2] Martin Van Buren, *Am. St. Sr.*, pages 404–407.
[3] Wilson, vol. iv., page 107. [4] *Ibid.*, page 110.

slave territory would thus be created[1] and also for the reason that she feared an intervention by England for the purpose of obtaining a recognition from Mexico of Texan independence to which would be attached provisos of trade concessions and abolition of slavery.[2]

James K. Polk of Tennessee, who has been described as "the first dark horse of the political race-course,"[3] received the nomination by the efforts of men impressed with the determination to annex Texas at all hazards. While it is not meant to infer that the Kavanagh followers were united as a body against the selection of Van Buren, still the defeat of the Fairfield-Anderson group's candidate, added to the bad feeling engendered over the Kavanagh campaign, made a conciliatory appointment a wise move. Particularly was this the case in as much as Fairfield had been suggested for vice-president. Mr. Clifford had been a loyal supporter of Polk, though preferring Van Buren, was closely associated with the Fairfield faction, was out of office and was a bit dissatisfied with his political treatment.

WASHINGTON CITY Nov 21 1846

MY DEAR WIFE

I was rejoiced to receive your letter communicating the acceptable intelligence that yourself & the children are in good health & that your business affairs were in a good state of preparation for the approach of winter. One good result will be effected by our separation, if no other, the necessity thrown upon you by my absence will give you a better knowledge of business affairs & thus fit you to manage your own affairs in case of my death, which though not to be anticipated it is well to prepare for. My health is

[1] Wilson, vol. iv., page 107.

[2] McMaster, vol. iv., pages 314–318. Hatch, vol. ii., pages 319–320. Smith, *War with Mexico*, vol. i., page 67.

[3] Lewis Cass., *Am. St. Sr.*, pages 214–5.

sound & is not likely to suffer either from the climate or from the nature & character of my employment. My business in court is in a state of forwardness. By the commencement of the term I hope to be pretty well prepared. The office business is still behind & it will take three months I fear to clear the table. That you may judge something of it I will remark that the Treasury Department sent me yesterday seventy two cases of land patents for my official examination and certificate.

On Tuesdays & Saturdays of every week I have to attend Cabinet meetings which consumes the best business portions of those days.

In addition to this many difficult questions of law are submitted to this office by the President or Heads of Department or the Solicitor of the Treasury upon which I am required to give written opinions. Four such questions are now before me—one of great importance & perplexing in its character.

You will see by the multiplicity of my engagements why it is that time passes so fast—minutes & hours are not counted,—the day is gone before I know it. I can hardly stop to eat or sleep lest something should be neglected—and yet this active employment seems favourable to my health— I am better than when I left home—though a little sparer *not to hurt*

The newspapers will inform you of the course of the administration, of that I must say nothing till we meet which I hope may be in March certainly not before. In two weeks Congress will assemble & then I must begin in the Supreme Court. I should like to see all the children but I know they are well off & I am at work for their good & that contents me—accept my best wishes

Your husband

NATHAN CLIFFORD

The following is quoted from President Polk's diary, under date of December 13, 1846:

Before church hour this morning Mr. Atto. Gen'l Clifford called and greatly surprised me by informing me that he had prepared his letter of resignation of the office of Attorney Gen'l of the U. S., and had called to confer with me on the subject. I at once expressed my astonishment to him, and told him I should greatly regret it, if he should take such a step. I told him that I was entirely satisfied with him, and hoped he would retain his place. He read the letter to me, which he had prepared, but did not offer to deliver it to me. In the letter he tendered his resignation, but expressed his approbation in unqualified terms of the whole course of my administration; and also that his personal relations with me, and with every member of the Cabinet, were of the most friendly and agreeable character. The letter did not contain the reasons for proposing to resign. I understood distinctly, however, from his conversation, that he had some apprehensions that, having come into the office but a short time before the meeting of the Court, he might not be able to sustain himself reputably. It seemed to be diffidence in his own capacity, which had induced him to think of resigning. I told him if he resigned now it would be assumed by his political opponents that he was not qualified, & that it would ruin him as a public man. In the course of the conversation he dropped a remark to the effect that perhaps I had some other person in my mind who could perform the duties better than he could. I told him I had not, and that if he were to resign it would greatly embarrass me. I think Mr. Clifford an honest man and a sincere friend. He feels in his new position somewhat timid, fears that he will not be able to sustain the reputation of his predecessors, and had therefore brought himself to the conclusion that he had better resign. He finally concluded not to tender his resignation, and retired apparently well satisfied at the interview I held with him.

The conversation relative to his resignation was held before Mr. Clifford's appointment had been confirmed by the Senate as the following communication discloses:

WASHINGTON CITY Dec 23 1846

MY DEAR WIFE

I cannot retire tonight without informing you that yesterday I made my opening argument in the case U. S. vs Bank of United States,[1] & today the Senate has confirmed my nomination *unanimously*—so that now I am fully in office. I have had many anxious hours but begin to feel more at home. It has worn me down some but my spirits & health are good—my best wishes attend you & each of the children. I have not yet heard from Charles —tell him to write.

Your husband

NATHAN CLIFFORD

During the months of June and July, 1847, President Polk made a journey through the New England States going as far as Augusta, Maine. A journal of this trip was kept by Mr. John Appleton of Maine,[2] Chief Clerk in the Navy Department. The President was accompanied by Mr. Buchanan and Mr. Clifford. The diary speaks of many interesting experiences. On their visit to Portland, Maine, the party was greeted by Eliphalet Greely, the mayor, and Governor Dana. The President stopped for a short time at Miss Jones' boarding house, at the corner of Congress and Park Streets on the site of the present Lafayette Hotel. After dining at the United States Hotel, the party took the steamer *Huntress* for Hallowell from which place they drove to Augusta where the President had rooms at the house of Honorable Ruel Williams. The excursion from Portland to Augusta consumed seven hours.

[1] This was a suit by the United States for a dividend on the stock of the old United States Bank owned by the Plaintiff, which the bank refused to pay because of a counter claim arising under a local statute. Mr Clifford was successful in causing the decision of the lower court to be overruled.

[2] This diary has never been published.

Mrs. Clifford was able to visit her husband during the year 1847. While family residence in Washington was for them financially impossible still the wife of the United States attorney general could afford an occasional vacation from household cares.

WASHINGTON CITY Sept 6 1847

MY DEAR WIFE

I received your letter dated in Boston & was much gratified to hear of your safe arrival there but was disappointed this morning in not hearing from you after you arrived at home— If you wrote the letter must come to hand tomorrow— Mrs. Graham has written you All begin to inquire when you will return & are anxious to see you— Mr. A Smith[1] is sick I fear he may have the bilious fever I am in good health Our house is full of boarders— I have letters from Charles & Nancy & from Mother Ayer

Your husband

NATHAN CLIFFORD

The treaty for the annexation of Texas, which President Tyler had submitted to the Senate, failed of passage in June, 1844.[2] However the Democratic National Convention of that year declared for "the re-occupation of Oregon and the re-annexation of Texas at the earliest practicable period."[3] The choice of Mr. Polk as the presidential candidate, a man who was an avowed advocate of this course, pledged his party to the policy.

After the election of Mr. Polk, Congress felt that the country had shown its feelings regarding the Texas question, and accepting the verdict, it passed a joint resolution March 3, 1845, in favor of the admission of Texas. Thus

[1] Albert Smith, Rep. to Congress from Maine, 1839–41.

[2] Wilson, vol. iv., page 110.

[3] *Ibid.*, page 112.

the union of the two countries was completed by President Tyler, but it was left to President Polk to deal with the consequences.

The boundaries of the new state presented grave questions for settlement. Texas claimed everything north and west of her that had been Spain's or Mexico's all the way to latitude 42 degrees,[1] and also so much of the area of the province of Coahuila as lay between the Nueces and the Rio Grande del Norte.

President Polk supported her claims to territory at the south. Before her admission into the union was completed, General Zachary Taylor was ordered to occupy the western bank of the Nueces with a small force of United States troops. During the summer of 1845, reinforcements were sent to him. Early in the following year he was ordered to advance to the Rio Grande. This position threatened the Mexican town of Matamoros; on account of which fact he was requested by the Mexican commander at that point to withdraw to the Neuces. On his refusal to leave the Rio Grande the Mexicans crossed the river and fell upon a small party of American dragoons. Shortly after this they attacked General Taylor in force and were repulsed at Palo Alto. On May 9, 1846, General Taylor assaulted the Mexicans, drove them back across the river, and on May 18th, himself crossed the Rio Grande and occupied Matamoros.

On the 11th day of May, President Polk made his famous announcement to Congress that "war exists, and exists by the act of Mexico herself." On September 21st and 23d the United States troops captured the town of Monterey, which is about one hundred and seventy miles west of Matamoros.[2]

In November of the same year, General Scott, who was

[1] Wilson, vol. iv., page 117.
[2] *Ibid.*, page 118.

at that time the ranking officer in the American army, was given command of an expedition sent by sea to attack the Mexican City of Vera Cruz. To make up Scott's force, that of General Taylor was reduced to about five thousand men. On the 22d and 23d of February, 1847, the Mexican General, Santa Anna, fell upon Taylor as he lay on the plain of Buena Vista. Santa Anna was defeated.[1]

WASHINGTON CITY March 27 1847

MY DEAR WIFE

I was in hopes to be able to say positively to day when I would return but cannot. I think however I shall try to get off the first part of *next week*.

For some days I have been afflicted with a bad cold. Am better to day & all the time have attended the office daily.

We are anxiously expecting news from Mexico to learn the fate of the army. We have no reliable information.

Since writing the above the New Orleans mail has arrived the Newspapers are high charged with rumors—Gen. Taylor has whipped Santa Anna at Buena Vista below Saltillo killing *4000* men & *losing 1000*.

The news is not official & therefore may be false. It has gained much credit here & I hope it is true—just received Nathan's letter.

I think we must leave Wm. Henry in Maine—however we will settle all those matters when I come.

Probably I shall not write again before I return

Your husband

NATHAN CLIFFORD

In the meantime the United States soldiers, under Gen. Scott, had reached Tampico. Later a landing was effected near the city of Vera Cruz, which was surrounded

[1] Wilson, vol. iv., pages 119–120.

and captured. The capital of the country was now the goal of the commander. The pass of Cerro Gordo was carried, and finally the long march was ended by the fall of the fortress of Chapultepec. By the 15th of September, 1847, the City of Mexico was in his hands.[1]

Quoting from Polk's Diary:

Sunday, Nov. 15, 1846.

The more I had reflected upon the suggestion made by Mr. Buchanan in Cabinet on yesterday that one of the nine Regiments of volunteers to be called out should be taken from Massachusetts, the more favourably I thought of it. I sent for the Secretary of War this morning to consult him on the subject. He inclined to favour the suggestion, but said it might be well to consult Mr. Clifford again before it was decided upon. The Secretary left, and I sent for Mr. Clifford. He said he thought more favourably of it, than he did on yesterday. It was concluded that Mr. Clifford should consult Mr. Burke of New Hampshire (the commissioner of Patents) & see me again after church to-day. . . .

At 3 o'clock P.M. Mr. Clifford, the Atto Gen'l called and informed me that he had seen Mr. Burke who entirely approved the suggestion that one of the Regiments of Volunteers should be called from New Hampshire (Massachusetts). If she obeyed the call all would be well. If she refused to obey it and acted as she did in the last war with Great Brittain the country would know it.

Monday, 23rd August, 1847.

The attorney Gen'l called this morning on official business, and after disposing of it we entered into a conversation about the mexican war. He expressed the opinion strongly that I should immediately call an additional volunteer force into the field; and also that if the war was not closed before the meeting of Congress, it should be prosecuted with the whole strength of the nation if necessary. He was utterly opposed to with-

[1] Wilson, vol. iv., pages 119-120.

drawing our forces, as destructive of National character & interests, as well as destructive of the Democratic party & of the administration. He thought there was but one course to pursue and that was to fight boldly through, holding all the places we have conquered until there is an honorable peace. In this respect he differed from the views of Mr. Buchanan as several times expressed by him in Cabinet. . . .

Saturday, 4th September, 1847.

The Cabinet met at the usual hour to-day; all the members present except the Secretary of War and the Secretary of the Navy, who are both absent from the City. After the transaction of some business of minor importance the Secretary of the Treasury, who had been requested at a former meeting to examine & Report upon the policy and propriety of levying an export duty on specie, as a military contribution in the ports of Mexico now in our military possession. He made a verbal Report and recommended that an export duty on specie be levied of the same amt. which had been levied by the Mexican laws before the War commenced. The Post master Gen'l and the Atto. General were in favour of the measure. Mr. Buchanan was opposed to it and assigned his reasons at some length for his opinion. Mr. Walker enforced his views in favour of the measure. The other members of the Cabinet participated in the discussion. My opinion had been decidedly in favour of the measure and I had so expressed myself. The views presented by Mr. Buchanan were plausable, if not sound, and struck me with some force. I finally informed the Cabinet that I would consider the subject further, and would not decide the question to-day. . . .

From the foregoing extracts it is evident that although Mr. Clifford was the latest addition to the cabinet of President Polk, he nevertheless had the courage to express his ideas on the conduct of the Mexican War forcefully. He was the chief advocate of a firm and determined course. It is also apparent that these views conflicted with the

opinions of the Secretary of State, who feared to pursue the bold and aggressive policy suggested by Mr. Clifford.

The action of the administration, as we have seen, was along the lines outlined by the Attorney General, and thus it may be stated conservatively that Mr. Clifford had great influence in shaping the policy of the United States in its conduct of the war with Mexico.

Mr. Nicholas P. Trist, the chief clerk in the State Department, was sent to Mexico as a Commissioner to arrive at an agreement with the Mexican government. The explanation for this rather unusual proceeding would seem to be that Mr. Buchanan, as Secretary of State, was not willing to give up to anybody else what glory might accrue to him from a successful termination of the Mexican difficulties. On the other hand, he did not wish to assume the responsibility for a disastrous conclusion of negotiations. Therefore, it occurred to his somewhat peculiar mind[1] that by using a subordinate he would be able to claim the credit of a satisfactory adjustment, and at the same time be free to cast the blame of any unfortunate result from his own shoulders.

Mr. Trist was given a draft of a treaty embodying the ideas of the administration. He left Washington, April 16, 1847, shortly after the capture of Vera Cruz. He immediately proceeded to the headquarters of the army.

It soon developed that there was not the proper co-operation between our envoy and General Scott.[2] The bad feeling between them soon ripened into a distinct breach. The matter was discussed at considerable length in President Polk's cabinet, the recall of both being at one time suggested.[3]

[1] See Polk's *Diary*, vol. ii., pages 465–7. The deductions are the present writer's.

[2] Polk's *Diary*, vol. iii., pages 62, 63, 76.

[3] *Ibid.*, page 77.

POLK'S DIARY

September 7th, 1847

In the course of the discussion The Attorney Gen'l expressed the opinion that if an army took possession of the City of Mexico, and the Mexicans still refused to make peace, that Mr. Trist should be recalled, and that Mexico and the world should be informed that we had no further propositions of peace to make, and that we should prosecute the War with the whole energy of the nation and overrun and subdue the whole country, until Mexico herself sued for peace. The Secretary of the Treasury expressed his concurrence in these opinions. I dissented from the opinion that Mr. Trist should be recalled, but concurred with the Atto. Gen'l in his views in all other respects. I thought we should still keep our minister with the Head Quarters of the army ready to receive any propositions of overtures of peace which Mexico might have to make. The Post master Gen'l appeared to concur with the Atto. Gen'l in his views. The Secretary of State and the Secretary of the Navy were not distinct in the expression of their views. It was finally concluded to postpone the whole subject until we could hear again from the army.

At length Mr. Trist made intimations to the Mexican government which were far in excess of the powers granted him.[1] This action of Mr. Trist convinced his principals that he must come home.[2] Instead of following the orders from Washington, he continued to remain in Mexico, and eventually negotiated a treaty which was in practical accord with his first instructions.[3] The administration was now in a very embarrassing position. An agreement had been reached, carrying out their views, in most particulars, yet it was effected by a person who had no authority at that time to act. After lengthy deliberation it was decided to submit the document sent home by Mr. Trist to the Senate

[1] Polk's *Diary*, vol. iii., page 196.
[2] *Ibid.*, page 200.
[3] *Ibid.*, pages 283, 300–1, 347.

which approved the same with slight amendments, March 10, 1848.[1]

After the action of the Senate upon the Mexican treaty, it became necessary to select a commissioner with full power to exchange ratifications with the Mexican government on the amended instrument. President Polk offered the mission to Louis McLane of Maryland, who refused it.[2] It was then tendered to Senator Ambrose H. Sevier of Arkansas, who was at the time the chairman of the Foreign Relations Committee of the Senate and in the full confidence of the administration.[3] Robert M. Walsh was secretary of legation.[4]

POLK'S DIARY

Friday, 25th February, 1848

Mr. Clifford, the atto. Gen'l [of the] U. S. called on business. In the course of conversation he informed me that after the Cabinet broke up on Monday last he had a conversation with Mr. Buchanan and Mr. Walker, from which he had serious apprehensions that they would both resign their seats in the Cabinet. He said if one had resigned both would. He said that Mr. Buchanan had accompanied him to his office and had conversed with him an hour on the subject. I told him there was no danger of such a result. . . . I told Mr. Clifford that I wished no rupture in my Cabinet, but that I must pursue my own convictions and do my duty regardless of consequences. I remarked freely to him of Mr. Buchanan's inconsistent course on the Mexican Question, an inconsistency only equally [equalled] by his course on the Oregon Question. I expressed to Mr. Clifford an indifference as to the course which Mr. Buchanan might think proper to pursue, but told him there was not the slightest danger of his resigning. I was surprised to hear that Mr. Walker had held any such conversation. Mr. Clifford requested me not to men-

[1] Polk's *Diary*, vol. iii., page 377.
[2] *Ibid.*, pages 373, 375.
[3] *Ibid.*, pages 379, 380.
[4] *Ibid.*, page 382.

tion to any one what he had told me, & I told him I would not. Mr. Buchanan's real trouble is that he cannot use my administration and shape his course according to his own ever varying whims, in order to promote his aspirations to the Presidency. He cares nothing for the success or glory of my administration further than he can make it subservient to his own political aspirations. I sent for Mr. Marcy & Mason to-day and with their assistance a despatch was prepared to Gen'l Butler, such as I wished the Secretary of War to insert in his despatch of yesterday, in relation to Mr. Trist. Indeed it was made stronger than that I had suggested on yesterday, and Gen'l Butler was directed to require Mr. Trist to leave the Head Quarters of the army, and to furnished him an escort to Vera Cruz. Mr. Mason fully approved of it. Mr. Marcy expressed no opinion, but made some suggestions and prepared a paragraph in preparing it. When it was completed I told Mr. Marcy I had directed this despatch and was willing to take the whole responsibility. I told him to take it to his Department, have it copied, and send the copy over to me, and that I would examine it again and would address a note to him directing him to send it forward, which note he could place on the files of the Department as evidence that he had sent it at my special direction and that I was responsible for it. Mr. Marcy and Mr. Mason retired and I sent for Mr. Buchanan and informed him what I had done, & that after reading the two insulting and highly exceptionable despatches of Mr. Trist which he had handed to me on yesterday I felt it to be my duty to the country and to myself to take this course. He said he could not object to my course, & that after receiving these despatches he approved of what I had done. He appeared to be in a better temper than he has been for several days past. He retired & I went to dinner. After dinner I received the despatch, copied by Mr. Marcy and ready for his signature. I addressed a note to him approving it and directing him to send it forward. In order to save a day by the mail which goes round by Baltimore & the Bay, a special messenger was sent by the Southern Boat with directions to have it mailed at Petersburg, Va. It will probably reach New Orleans before

Mr. Freanor, the bearer of despatches, who left last night for Mexico, will leave the former City. I have thus done to-day what I thought ought to have been done on yesterday. I sent for Senator Douglas to-night and had a conversation with him about the Mexican Treaty. Mr. Johnson, the P. M. Gen'l, came in while we were conversing on the subject. After Mr. Douglas left Mr. Johnson expressed the opinion that the Treaty was in great danger, from what he had learned, of being rejected. He stated, among other things, that it was believed in the City that Mr. Buchanan and Mr. Walker were exerting their influence to have it rejected. He mentioned another astounding fact to me, viz., that it was reported and believed that Mr. Walker, the Secretary of the Treasury, had joined in a letter to Gen'l Taylor on the subject of the tariff and the Constitutional Treasury, and that Mr. Walker was in favour of Gen'l Taylor for the Presidency. If this be so, it presents the singular spectacle of a member of my Cabinet supporting a Whig and an opponent of my administration as my successor. If I ascertain this to be the fact it will be inconsistent with the success of my measures for Mr. Walker to remain in my Cabinet. I will require strong proof however before I can believe it to be true. The truth is that the scheming and intriguing about the Presidential election, and especially by Mr. Buchanan, is seriously embarrassing my administration.

Friday, 17th March, 1848

Mr. Johnson called shortly afterwards, when I learned that Mr. Sevier was quite ill, so much so that his physician had refused to permit any persons to visit him. I saw Mr. Buchanan on the subject, and decided at once that another commissioner to Mexico must be appointed, with full powers, &c., to proceed to Mexico with the Treaty as amended & ratified by the Senate. It was a case of emergency and no time was to be lost. I thought of Mr. Clifford, the Atto. Gen'l of the U. S., as a fit person, and one who was already informed of all my views, and told Mr. Buchanan if he would accept of the mission I would appoint him. Mr. Buchanan concurred with me

in opinion as to Mr. Clifford's fitness. I sent for Mr. Clifford and informed him of the emergency which had arisen, and informed him that I wished him to accept the mission. The tender of the mission took him by surprise, but he said if I deemed it to be necessary for the public service he would accept it. I told him I would appoint him, if Mr. Sevier continued so ill as to render it improbable that he could proceed to Mexico in two or three days. His attack, I understand, is such as he has been subject to, and from which he may recover speedily. I sent my Private Secretary to the Capitol to inform the chairman of the committee on Foreign affairs of the Senate, that in consequence of Mr. Sevier's indisposition, I would probably desire to nominate another commissioner to Mexico on to-morrow, and to request him to prevail on the Senate not to adjourn over until Monday, as I learned they would probably do. The Senate is in the habit of adjourning over from Thursday or Friday in each week to Monday, when no pressing business requires them to be in Session on Saturdays.

I had a Dinner party today, consisting of about 20 members of Congress, and three or four other persons. This was reception evening. The usual number of persons, ladies & gentlemen, attended.

Saturday, 18th March, 1848

This morning the Hon. Mr. Johnson, the brother-in-law of Mr. Sevier, and Dr. Hall, his attending physician, called and reported to me that Mr. Sevier had been quite ill last night, but was better this morning. From Dr. Hall's statement of his condition I was satisfied, if he recovered speedily, he could not be able to proceed on his mission to Mexico for some days to come; and I determined to nominate Mr. Clifford to the Senate as an associate commissioner to Mexico, with full diplomatic powers, to act either separately, or jointly with Mr. Sevier, if the latter should recover from his illness and be able to follow & join him in Mexico. At my request Mr. Buchanan waited on Mr. Sevier, and learned from him that Mr. Clifford's appointment as associate commissioner would be entirely satisfactory to him. I sent for Senator Hannegan, chairman

of the committee of Foreign affairs, and for Senator Cass, and informed them that they might explain to the Senate the necessity for the appointment of another commissioner. At 12 o'clock I sent Mr. Clifford's nomination to the Senate and it was immediately confirmed by the Senate. At 5 o'clock P. M. Mr. Clifford rode with me in my carriage to Mr. Sevier's boarding-house, and [we learned that he was] better than he was in the morning. He was perfectly satisfied with Mr. Clifford's association with him as a joint commissioner, & thought he would be able to follow him in a few days. After night Mr. Clifford called, and I held a full conversation with him on the subject of his mission and its objects. He handed to me his Resignation of the office of Atto. Gen'l of the U. States. I informed him that I would not fill the place by a permanent appointment, but would make an appointment *ad interim*, in the hope that his absence on his mission might be of short duration, and that on his return I would desire him to resume the office of Atto. General. Mr. Clifford's appointment as commissioner is the best, under all the circumstances, which I could have made. He is perfectly familiar with all my views, as often discussed in the Cabinet, in relation to the Treaty and all its provisions. He is, too, a very discreet, sensible man. I[n]deed, upon the happening of the sudden illness of Mr. Sevier, and the necessity of despatching another commissioner without delay, there is no other person out of my Cabinet, who could have been so well prepared to carry out my views. Mr. Clifford took leave of me in my office about 10 O'Clock to-night and will proceed on his journey, accompanied by Mr. Walsh, the Secretary of Legation, to-morrow morning at 3 O'Clock. He will travel by the Southern route. He bears despatches from the War Department to Gen'l Butler & the Court of Enquiry in Mexico of which Gen'l Tomson is President, and a letter to Gen'l Scott. He also bears despatches from the Secretary of the Navy to Commodore Perry, who is in command of the naval squadron in the gulf of Mexico.

One cannot be surprised at the choice of Mr. Clifford for this mission. Being the most prominent exponent

in the Cabinet of the policy of the administration of a firm stand regarding Mexico, his selection was but natural. In view of more recent developments in that unhappy land, it is interesting to know that he felt the United States, at that time, should have taken over the whole country as he believed they would be obliged eventually to do.

President Polk said of Mr. Clifford, "He is a safe and able lawyer, and I was satisfied with him as a member of my cabinet."[1]

[1] Polk's *Diary*, vol. iii., page 393.

CHAPTER VIII

Minister to Mexico

THE account of Mr. Clifford's long and difficult journey to Mexico is told fully in his letters which appear hereafter, but before attempting a perusal of them, the reader ought to be made acquainted with some facts about and the conditions attending the mission. It should be borne in mind that Mr. Clifford went twice to Mexico, the first time without any of his family, and again accompanied by his wife and two younger sons, the William Henry and the George Franklin of the previous letters. At the time of his departure, it was supposed that he would simply exchange ratifications on the treaty and immediately return. After his arrival, however, he received the appointment as Minister to Mexico. As he had not expected to remain long away from home, he got permission to come back to the United States for his family. This he did in November, 1848.

It cannot be doubted that there was considerable real danger, even to the American minister, in entering the Mexico of 1848. To the country relatives of Mr. Clifford, it seemed that he was going to certain death. To a man of his age and rearing there was certainly no lure of adventure in the position. When all the surrounding circumstances are considered, it must be admitted that an element of courage was necessary to the character of one who accepted the place of envoy at this time.

That apprehension was not groundless the two following incidents are proof. The narrative of them was told by a

son of Mr. Clifford who was a participant in the latter. On one of the trips during the first visit, the guards who had been ordered to be constantly in attendance on the minister's coach had lagged behind. While the party was thus deprived of their proper protection, suddenly, the leading mules were noticed to stumble and fall, and the conveyance was thus brought to a standstill. Immediately the stage was surrounded by a band of robbers. Regardless of the danger, Mr. Clifford opened the door of the coach and discharged his pistol at the man who seemed to act in the capacity of captain of the gang. This unexpected resistance put an end to the purposes of the bandits who forthwith withdrew, carrying away their wounded leader.

The other story relates to the period after Mr. and Mrs. Clifford had become established in the embassy. They were driving one afternoon just outside the city, accompanied by Mr. Hargous, an American merchant referred to in the correspondence, and two young ladies on horseback. William Henry was riding a pony which had been presented to him by Mr. D. W. Seager, one of the American residents of Mexico. At a turn of the road some distance in front of them were seen a line of brigands drawn up across the way. The carriage was stopped and a consultation was had. Finally, it was decided that the three young people should go ahead and, in the words of Mr. Hargous, "ride like Hell," directly in the face of the opposing line, leaving their elders to follow along behind to watch results. To the surprise of all, as the pony and the two saddle horses went tearing down the road abreast, straight into the robbers' faces, the line parted, caps were doffed, and the whole party, young and old were allowed to pass with salutations from the Mexicans.

It may be asked, "Why did Mr. Clifford go on a mission attended with such evident danger, and carrying with it

the element of uncertainty, even as to the life of the holder?" The answer is probably to be found in the fact that Mr. Clifford was a very poor man. All the offices held by him up to this time had brought in little or no money, beyond what had been absolutely necessary for the needs of a large and growing family. The proper education of four boys and two girls made demands upon a scantily filled exchequer, which, up to the present time had been met only with difficulty, and unless some change for the better occurred, would be discharged with less ease in the future. Here was an opportunity which carried with it the hope of something substantial in the way of financial recompense, and if availed of with success, might lead to better chances later. Acceptance would place party leaders under a sense of obligation to one who had thus risked his life in the service of his country.

It has been deemed advisable in presenting to the public for the first time the account of Mr. Clifford's mission, to let him tell the story, as much as possible, in his own words. There is a certain freshness about a first-hand account of his experiences which would be entirely lost in an attempt at a paraphrase. It is to be regretted that there is to be found no family correspondence of the period of his second sojourn in Mexico. This is, of course, accounted for by the fact that his wife and younger children were with him, and what letters may have been written to the other members of the family were less frequent and not so carefully preserved.

Mobile 25 March 1848

My Dear Wife

When I have a little leisure & am less fatigued I will endeavour to give you a more minute account of my journey to this place than I will be able to do at this time. The boat started from Washington between two & three o'clock on Sunday morning & passed down the river, I

judge about forty miles, when we took the cars & found railroad accomodation to Wilmington North Carolina where we took the steamboat to Charleston South Carolina. On entering the boat we were required to give our names ages place of birth & place of residence— This I was told is a regulation adopted to comply with the laws of the State— We reached Charleston a few minutes past nine A M on Sunday in ample season to pass on in the regular train for Augusta in Georgia where we arrived about six that evening in the midst of a violent thunder shower. I got a little wet in waiting to see the baggage separated & took a slight cold from which however I feel no inconvenience—From Augusta we took the rail road that evening for Atlanta in Georgia where we arrived at 8 o clock Wednesday morning. Leaving that place in one half hour after our arrival reached Griffin Georgia at twelve o'clock meridian. There we were obliged to take stages to Auburn (or rather to a village near Auburn distance 93 miles) riding all night & until one oclock on Monday where we again found a rail road to Montgomery in Alabama. About 4 o clock we went on board the *Orleans St. John* at Montgomery on that day & proceeded down the Alabama river to this place & arrived here this day Saturday at twelve o clock & went immediately on board the mail Steamer *Oregon* where I am now writing this letter. She will sail at two oclock & I expect to reach New Orleans on Sabbath morn in season for breakfast. The journey has been agreeable though tiresome. Coming down the Alabama river the boat took fire. It was however immediately quenched— It occasioned a little excitement —but without the least occasion for it— The river is narrow. I could swim it & carry one coward on my back if he would lie still— The commander of the *Orleans St. John* is Capt. Myers from Gardiner, Maine, a noble fellow & an accomodating gentleman. We have been unusually

successful in making the journey expeditiously not having lost one moment or failed to match the line at any point. My health & spirits good. I believe I am in the way of my duty & I shall press on with confidence in the guidance & support of an overruling Providence— I will close this letter at New Orleans & mail it there.

New Orleans 26 March 1848

I arrived here at four oclock this morning & have taken lodgings at the St. Charles Hotel. Thus far the day has been spent in receiving calls. Among the number Gov Johnston— Judge Slidell[1] & all the army & Navy officers I believe—at all events I am tired of company. My appointment is well received here even by the whigs— I shall sail tomorrow about the middle of the day in the *Massachusetts* for Vera Cruz. I do not know when I shall write again but will do so as soon as possible— The weather is warm. Every one is complaining of the heat but myself. I feel no inconvenience— My health is good— A little weary but one nights rest will restore me — Write to the children & to mother Clifford & assure them I am in no danger. I suppose they will not expect to see me again— Tell them I am in good spirits & will return in two or three months at worst—perhaps much sooner & accept the assurance with which I am as ever

Your husband

Nathan Clifford

New Orleans
March 26, 1848

Hon. James Buchanan,
Secretary of State

Dear Sir:—

In compliance with your suggestions before I left Washington, I have the honor to inform you that I arrived

[1] John Slidell, Minister to Mexico to settle our differences with her in 1846. Negotiation was refused by Mexico. Smith, *The War with Mexico*, vol. i., pages 91–98.

at this place at four o'clock this morning, accompanied by Mr. Walsh, Secretary of the Legation and Lieutenant Contee of the U. S. Navy. The journey thus far has been an agreeable one because nothing occurred on the way to prevent me from travelling as fast as the present means of conveyance will allow. The communication entrusted to my care, from the War Department to Brigadier General Brooks, was placed in his hands immediately after my arrival. Satisfactory arrangements have already been made for my departure for Vera Cruz tomorrow at 3 o'clock p.m. in the ship *Massachusetts*. At first I felt inclined to select the *Endora* a small propeller, thinking that perhaps the passage could be performed more expeditiously in her than in the *Massachusetts* which is a sail vessel; but I have yielded my first impression to the united advice of the officers at this post in favor of the *Massachusetts*, which is said to be preferable at this season of the year both on the score of convenience and speed. Though not entirely convinced as to the latter, I have deemed it wisest, under the circumstances, to trust to the judgment of those who are more experienced in such matters than myself. Probably there is not much difference in the speed of the two vessels. If the wind is fair, I am assured the *Massachusetts* may reach Vera Cruz in seventy two hours.

I have the honor to be, Sir, with great respect,

Your obedient Servant,

NATHAN CLIFFORD

VERA CRUZ MEXICO April 2, 1848

MY DEAR WIFE

I arrived here this morning in the ship *Massachusetts*. We anchored near the castle of San Juan de Uloa &

immediately Com[1] Perry fired a salute from his flagship *Cumberland*, which made the whole city wake up. After receiving visits from the Commodore & Gov. Wilson[2] & listening awhile to the band I went on shore & am now stopping at the House of Mr. Hargous an American Merchant. A second salute was fired from the fort & this evening the band has visited me & played *Sweet Home* & the *Star Spangled Banner*— The escort is ready for tomorrow when I start for the City of Mexico. I have an ambulance to be drawn by four horses & one led horse for my use when I shall become tired of riding in the ambulance or waggon— My escort consists of sixty mounted men under Capt. Fairchild. Santa Anna[3] is near this place under an escort of our troops— This being Sabbath the Mexicans paraded the streets in the morning & in the afternoon had a bull fight in sight of the House I occupy—The town is quiet & apparently under perfect control though its police is directed by Mexican authority restored three days since in consequence of the new armistice.

We have to buy our own provisions & buy blankets for beds on our way up.

[1] Commodore M. C. Perry, in command of the American squadron, at Vera Cruz. He had superseded Commodore David Conner. Smith, *The War with Mexico*, vol. ii., page 202.

[2] Col. Henry Wilson, Governor of Vera Cruz at this time. Smith, *The War with Mexico*, vol. ii., page 457.

[3] Antonio Lopez de Santa Anna had been eliminated from the government of Mexico and was about to sail from what he regarded as an ungrateful country. Smith, *The War with Mexico*, vol. ii., page 182. While it is impossible in this book, without transgressing reasonable limits, to give a history of events in Mexico from 1841 up to the time of Mr. Clifford's mission, a few facts may render the following correspondence more interesting. Santa Anna had been dictator in 1841, President in 1844 and then deposed. He then left Mexico only to return again and be appointed commander-in-chief of the army from which position he again assumed the chief executive power. During the interim there were several Presidents among whom were Paredes and Herrera mentioned in the ensuing letters. See Smith, *The War with Mexico*, vol. i., pages 50–55, vol. ii., pages 80–85.

I am now twenty-three hundred miles from Washington —It is about nine hundred miles across the Gulf—a gloomy passage though perfectly safe in our good ship. It is pretty warm here which makes me desirous to leave. I am told that one day will carry me to a better climate. My health is good— I think I am in no danger from the climate & there is not the least danger in any other sense— I am in good spirits & verily believe that I shall be successful. Be of good cheer I will return soon if my life is spared.

Your husband

NATHAN CLIFFORD

VERA CRUZ April 2d, 1848

HON. JAMES BUCHANAN,
SECRETARY OF STATE,

DEAR SIR,

On Monday the 27th ultimo, I sailed with my suite, from New Orleans, in the ship *Massachusetts;* and this morning we arrived here after an agreeable passage. The escort for the journey to the City of Mexico will be ready tomorrow, when we shall set off. At New Orleans I was informed by Mr. Kennedy, one of the officers of the Mint, that the archives of the former Legation of the United States in Mexico had been deposited with him by Mr. Consul Black; and deeming it advisable to have them within reach, I brought them with me and placed them under the care of Mr. Dimond, our Consul at this place. I am happy to be able to state that the opinions of the most intelligent persons whom I have met here, would authorize the belief that there is every disposition in the Mexican Government to ratify the Treaty without delay. From Colonel Wilson, the Military Governor of the town, I learn that General Santa Anna is now at a village in the

neighborhood, under an escort of our troops, and is expected to embark immediately for the island of Jamaica.

I have the honor to be, Sir, with great respect,
Your Obedient Servant,
NATHAN CLIFFORD.

CITY MEXICO April 13 1848

MY DEAR WIFE

I have the satisfaction to apprize you of my safe arrival in this City— I reached the suburbs of the city on Tuesday last about 11 oclock AM & was escorted to the city by a detachment of U S Cavalry— Just outside of the walls I was met first by Gen Patterson[1] to whom had been assigned the duty of receiving me & reviewed the troops more than four thousand in number. The commanding General Butler[2] riding by my side as my personal friend. It was the grandest spectacle I ever saw. Having passed through the ceremony of reviewing the troops at Puebla I felt quite at home in the business. If I had a military dress I might soon pass for a military man. After the ceremony of reviewing the troops was over & I had been shown to my residence, I accompanied Gen Butler to his head quarters & met a large concourse of our officers. I occupy a large four story stone dwelling House splendidly furnished. Mr. Walsh & one servant being my only companions. The door is guarded by American troops— The House belongs to Jose Miguel Garileay— The street is called "*2 Calle de la Monterilla.*" Gen Butler's head quarters are within forty rods of my residence—

[1] Robert Patterson at one time suggested to command expedition against Vera Cruz. Smith, vol. i., page 351.

[2] W. O. Butler. He succeeded Scott in command after fall of the City of Mexico. Smith, vol. ii., page 188.

The owner of the House lives in the back part of the House entirely separate as much so as if he was in another block of buildings— My meals are furnished from a Restaurant—

I left Vera Cruz Monday April 4th in the afternoon & arrived here Tuesday the 11th under an escort of fifty five mounted men— A part of the time we slept in the towns not garrisoned by American troops— The escort would fall alseep from fatigue but we encountered no danger— The friends around me were all armed & had plenty of arms for my use— I rode with an unloaded Pistol in my trunk finding more arms in my company than could be used—first night slept at San Juan—2nd night at Puente National[1]—3rd night at Jalapa 4th night at Perote—5th at Ojo de Agua 6th night at Puebla 7th at San Martine 8th at Ayotla & then at Mexico City— We had to supply our own provisions by carrying them with us & our own beds a part of the time— The dwelling Houses have no fireplaces & the public Houses rarely have more than one bed—

My health is perfectly good & I am in no personal danger— Murders occur here very frequently but my house is well guarded & we are now well armed. I have no fears whatever— I have a good interpreter & begin to speak some words of the language. It is some embarrassment not to be able to speak the language— That will gradually disappear. Appearances lead me to hope I may be successful in which event I hope to return in May or June I assume— I expect Mr. Sevier here in a few days— Make yourself comfortable & happy & give my love to each of the children & believe me as ever—

Your husband

NATHAN CLIFFORD

[1] Puente Nacional.

City of Mexico April 20, 1848

My Dear Wife

Since I last wrote you Col. Sevier has joined me & we have changed our residence into another street— We now board in the House of the gentlemen whose card I enclose— His family left the city when war broke out & reside at Puebla— We have all of the House that we want & are wholly by ourselves— My health is good & I think I am in no danger— I wish you to write & direct to the City of Mexico & inclose in a blank wrapper to Mr. Buchanan & he will forward to me. Appearances indicate that we will have to move to Queretaro the present seat of government about 120 miles from this city— If we go we shall take a small escort of American troops to guard against robbers & assassination— I think the Mexican army will not play false— I am anxious to hear of your safe arrival at home with the children— I verily believe we shall be successful in our mission. Mr. Buchanan has issued instructions directing me to remain a short time after the treaty is ratified but I shall leave for home I think in May or June— I cannot consent to be separated from you and the children in this wild country for any length of time for money or popular favor. We have entered at once upon our duties & shall close the matter without delay— It is not warmer here than in Washington— The bad climate is confined to Vera Cruz— I shall dread that place on my return home. The Mexicans keep aloof from us & I am not sorry that they do so as I am not pleased with them in the least degree—

Do as well as you can. I trust in God we are not separated for a long time but if any thing befalls me I must leave you and the children in the hands of a merciful God & trust we may all meet in heaven. I assure you I feel no concern for myself & am only anxious for the result on the account of yourself & the children. Give my love to my

mother & to mother Ayer. I know they will almost number me with the dead— Tell them to be of good cheer. I shall return to administer to their wants in their declining years. Kiss little "Franky" for me & God bless you all— Tell the children to be steady & spend as little as possible. I hope to save something considerable in this tour so as to better our condition & enable us to live more to our minds — In conclusion I assure you my health is good & I do not consider myself in the least danger— I shall be prudent and have no doubt everything at home will be conducted as well as I could wish. Mr. Sevier, Walsh & myself live together & eat at the same table As ever

Your husband

NATHAN CLIFFORD

CITY OF MEXICO April 27 1848

MY DEAR WIFE

When I last wrote you I expected ere this to have been in Queretaro the temporary seat of government of the Republic. The delay has been occasioned by the unwillingness of the Government to allow us to visit them under an escort of our troops— They have tendered us an escort of Mexican soldiers which, though ours would be preferable we shall accept rather than suffer our mission to fail— They dare not prove false— It is expected that a quorum of their congress will assemble on Monday next & I have no doubt the treaty will be ratified by the first of June— I forgot to enclose in my last the card of our Host— His name is Antonio Horay Tacuba— The name of the street— Tacuba No 19— I have visited the battle fields of Churubusco— Molino del Rey & Chapultepec & tomorrow I shall visit Contreras. Col Sevier & myself have reviewed the troops twice & I had once before he arrived— We have given two dinners—

mostly to American officers Gen Mora y Villamil[1] & Mr Boneila (Mexians) were present— The climate is moderately warm it is usually fair in the morning & rains every afternoon. The nights are quite cool— The City of Mexico is situated on a large level plain called table land about sixty miles by forty— From the heights of Chapultepec the whole expanse is open to our view— It is surrounded by mountains some of which are covered with perpetual snow. At the foot of these mountains it is excessively hot while the tops are covered with snow. The air is very rarefied & quite oppressive to the head— For a few days I felt uncomfortable but am becoming accustomed to it. My health is good— The only trouble I find is our officers want to show us everything which keeps me too much on horseback. It is however good exercise.

The City is built chiefly with stone. The Houses generally two stories & a basement. The entrance on the street is through a plank door in two parts like the large doors of a northern house. A guard placed inside of the doors would defend the House against any thing but artillery— Every House is a castle— The servants generally live on the ground floor— The genteel people live in the upper story—usually however there is a family in every story— The city is well watered by aqueducts of cement 75 miles long— The streets are paved with rough stone. It has several large churches. Some of them cover a whole square like a Philadelphia square not quite as large— The Houses have no fireplaces, no chimneys. They cook in a furnace— The lower stories rarely have any windows— The windows of the upper stories extend down to the floor and open in two doors &

[1] Smith, *War with Mexico*, vol. ii., page 135. Ignacio Mora y Villamil. He had been placed by Santa Anna on the peace commission to negotiate with Trist.

are protected by plank doors inside instead of shutters— When the House is closed one would be perfectly safe against rifle Balls or even grape shot—

The population is mostly Indian & a poor race. These stroll about the streets, the women often carrying the children in their arms—badly clad & filthy— The Mexican women it is said do not walk the streets except on a few Holidays in each year. Some of them go to church or mass as they call it at a very early Hour in the morning generally attended by a waiting woman of the Indian race. The Indian race has the red skin like the north American Indian— They are of a low stature, squalid & generally miserable, ignorant & thievish— The Mexican race are generally about the color of the quadroons of the United States— Occasionally one is seen that is as white as an American. The number of such is as far as I can judge very small. Not one in five hundred— They have no schools except in churches— The religion is Roman Catholic altogether— The Priests wear hats two feet long & turned up on the sides—mostly dressed in black, one order in cloth lighter colored than that worn by the Quakers. Every man of wealth has a coach. They are generally drawn by mules—which appear to be preferred to horses— For instance at Puebla I was furnished with a coach drawn by six mules and two Mexican postillions—one on the right wheel mule & the other on the right leader—& away we went at a right good rate— The gentry here breakfast at 11 A.M. dine at 7 P.M. & gamble much of the night—

We breakfast at ½ past 8 & dine at 3 P.M. which is as early as we can possibly find a cook to furnish it— No one will furnish a breakfast at 8 oclock on account of the markets &c—

The House in which we lived is splendidly furnished— Brussels carpet mahogany chairs & every thing to cor-

respond. Mr. Hora was one of Santa Anna's ministers— He has sent his family to Puebla & is living alone with his servants— I met today Wm. Kelleys son & he has furnished me with a servant, mine having proved dishonest & stole a Pistol from me & about a hundred dollars in money— The Pistol I have got back from the man he sold it to— It is the one Col. Talcott gave me— The money I fear is gone— The way he got the money was the day I went to Chapultepec I left my key in my trunk. Mr. Kelley assures me that this boy is honest. He is a black boy from Boston— I received my shirts having previously purchased a dozen in New Orleans. I am well supplied— Take good care of yourself & the children & do not be concerned for me— I am in no danger. I keep myself well armed & am in the midst of friends all of whom are equally well armed. We are just as safe as you are. These rascals are mighty fearful of well-armed men especially Americans— If we go to Queretaro we shall have sixty four picked men under the command of Maj Polk. My love to yourself & the children

Your husband

NATHAN CLIFFORD

CITY OF MEXICO,
May 7th, 1848

HON. JAMES BUCHANAN
SECRETARY OF STATE.

SIR,

You will receive herewith copies of the several notes addressed by us to the Minister of Foreign Relations, and of his answers to the two first, which comprise all the correspondence between us to this date. We regret that it is not in our power to communicate more definite information as to the result of our mission. The delay has been occasioned by causes which were not fully under-

stood in the United States at the date of our departure and over which we have been able to exercise but little influence. When we arrived here the deputies had not been chosen in this city, and the election was not completed until the 23d ultimo. The same remark is applicable to Puebla and one or two of the other departments. The first step taken by Mr. Clifford was to institute an informal inquiry of the government at Queretaro, through General Mora y Villamil, as to the most acceptable mode of announcing the arrival of the commission and of their wishes in regard to the place of consultation, if any were desired. A verbal answer to this was received on the morning after the arrival of Mr. Sevier. Having collected the best information as to the wishes of the Government we addressed our first note to Sr. Rosa, which led to the residue of the correspondence. The preliminaries of our contemplated visit to Queretaro are happily arranged, as you will perceive; and we only await the appointment by the President of the day of departure. Anxious as we are to expedite the business entrusted to our charge, we have deemed it unwise to go to Queretaro in anticipation of the wishes of the President, who appears to be sincerely in favor of peace and, being on the ground, can judge best of the fit moment for our arrival at that place. It is understood that all the members from this city are favorable to the ratification of the treaty. Of the four Senators elected from this district, two are on their way to the seat of government, and the other two, of whom the Archbishop is one, leave today.

Since our arrival here we think we discover a growing feeling favorable to the restoration of peace. Thus far our presence in this city has been productive of much more good than it would have been in our power to accomplish at Queretaro in the absence of a quorum of Congress. Now that the members from this section have nearly all

left, we shall repair to that place as soon as we can do so in conformity with the views of the government. It is highly probable, however, according to information received from General Mora today, that our presence there will not be desired until after the ratification of the treaty.

If Congress acts at all, which we are confident it will, we have little doubt of the result. Both branches are now organized, and the members are entering upon business with commendable industry. We are assured that as soon as the President is elected, the treaty will be considered. It is supposed that Herrera will be chosen, as he has a plurality of the votes of the people. The amendments made by our Senate do not appear to attract much attention, and it is not supposed that they will constitute any serious obstacle to the consummation of the treaty. While we anticipate that the treaty will be ratified, yet, considering the uncertainty which surrounds everything in this country, we deem it proper to prepare for the reverse. In such event we are of opinion that our presence here could not be productive of any good, and would request to have leave to return, remarking at the same time that we are ready to obey instructions.

We have the honor to be, Sir.

With great respect,
Your obedient Servant,

A. H. Sevier
Nathan Clifford

City of Mexico,
April 17, 1848.

The undersigned Commissioners of the United States of America have the honor to apprize His Excellency, the Minister of Foreign Relations of the Mexican Republic,

of their arrival in this city, and of their readiness to enter upon the duties of their mission so soon as they shall have been duly accredited by the Mexican Government. To prevent unnecessary delay it is deemed proper to communicate the information that they are fully authorized to exchange the ratification on the part of their Government of the treaty between the United States of America and the Mexican Republic concluded and signed at Guadalupe Hidalgo on the second of February last by the plenipotentiaries of the respective Governments in the form in which it has been amended by the Senate of the United States, for the like ratification on the part of the Mexican Government of the said treaty. They also transmit herewith a sealed communication from the Secretary of State of the United States addressed to His Excellency the Minister, etc., etc., explanatory of the said amendments. It is presumed that this communication embraces all the information which may be desired by the Mexican Government in regard to the amendments to the treaty of peace. If, however, further explanations are wished, the undersigned will be prepared to give them promptly to the Minister of Foreign Relations or other authorized agents of the Mexican Republic at such convenient place as the Mexican Government may designate. Wishing to avoid all mere questions of form and to enter at once upon the subject of their mission, the undersigned inclose herewith official copies of their respective letters of credence, the originals of which will be delivered in such mode as may be agreeable to the President of the Mexican Republic. Should it become advisable in the opinion of the Mexican Government for the undersigned to visit the city of Queretaro, they cannot doubt that it will be deemed both expedient and proper that they should travel there and remain under a protection of a suitable escort of American troops. The undersigned avail themselves of the oppor-

tunity to tender to His Excellency the expression of their distinguished consideration.

A. H. Sevier
N. Clifford

To Senor Don Luis De la Rosa,
Etc. Etc. Etc.

There was a considerable correspondence between the commissioners and Rosa regarding the escort to be furnished the former, the latter insisting that the Mexican troops were a sufficient protection. It was finally agreed however that sixty American dragoons should be in the party.

City Mexico May 21, 1848

My Dear Wife

The treaty has passed the chamber of Deputies by a vote of 51 to 35 & no doubt will pass the Mexican senate within two days— We leave for Queretaro tomorrow morning at 7 oclock escorted by sixty Dragoons— In ten days you may expect the treaty to be ratified & the exchange of ratifications to be completed when Col Sevier will leave for the United States & the army will commence embarking. It is my intention now to leave with the army but cannot fix the precise day—

My health is good— It will take us four days to go to Queretaro & four to return & may have to stay there from two to four days. I may now say we are certain of success — I think it not improbable there may be some delay in embarking the army as there are considerable many sick to be carried out in waggons.

Be of good cheer I will come as soon as possible My love to you & the children & believe me as ever during life

Your husband
Nathan Clifford

City of Queretaro May 26 1848

My Dear Wife

I arrived in the city yesterday about four oclock P.M. The treaty passed the Senate after we entered the gate of the city and before we reached our lodgings by a vote of 33 to 4. It has now passed both Houses of Congress & nothing remains to be done except to exchange the ratifications. Col Sevier was again taken sick yesterday & is confined to his bed—today I presented his credentials & mine and made a speech of presentation & received the speech of the President, Peña y Peña,[1] in reply— This evening I held the official *talk* with Señor Rosa the secretary of State— I have strong hopes that the ratifications will be exchanged tomorrow in which case we shall leave on our return to Mexico on Sabbath morning— Our complete success is perfectly certain— We marched into this city (which is 142 miles from Mexico City) with sixty dragoons & perfectly astonished the natives— The city contains 25 to 30 thousand inhabitants mostly Indians— One of our company who went forward to engage our breakfast with two soldiers was fired at by seven robbers— The robbers took bad aim & did not hit any one— After firing they ran away but when the Mexican Diligence arrived they attacked it—and robbed all the passengers— It is really a singular country of which I will give you a more full account when I return. My health is pretty good & I am in good spirits— It took us four days to travel from Mexico here & will take the same time to return to that place— Give my love to the children & all our friends. Tell them not to be concerned about me.

[1] The fall of Mexico City had resulted in the destruction of the Mexican government. Santa Anna resigned and the republic was left without a head. A few of the best and ablest men of the country then proceeded to form a government. Among these patriots were Cuevas, Couto and Peña y Peña, the latter being drawn from his retirement and forced to act as executive *ad interim*.—Smith, *The War with Mexico*, vol. ii., pages 179–80.

I can take care of myself against all dangers here except sickness & that is a matter which Providence controls let us be where we may. My love to yourself & believe me

Your husband

NATHAN CLIFFORD

CITY OF QUERETARO,
May 30, 1848.

HON. JAMES BUCHANAN
SECRETARY OF STATE

SIR—

In our last we had the honor to inform you of our arrival in this city on the 25th instant. On the following day at 12 o'clock meridian, in pursuance of a previous arrangement, Mr. Clifford was presented to the President of the Republic by Mr. Rosa, the Secretary of Foreign Relations, in presence of the cabinet and a large number of the civil and military officers of the government, and placed our credentials in the hands of His Excellency. Mr. Sevier was prevented by indisposition from being present on the occasion. Several conferences afterwards took place between Messrs. Rosa, Cuevas and Couto and ourselves, which it is not thought necessary to recapitulate, as we enclose a copy of the protocol which contains the substance of the conversations. We have now the satisfaction to announce that the exchange of ratifications was effected to-day. Some delay occurred after the confirmus in the preparation of the Mexican copy of the treaty. That was finally accomplished within the last hour, when the exchange of ratifications was duly made by Mr. Rosa in behalf of the Mexican Government, and ourselves on the part of the United States.

Having accomplished our duties here, we shall return immediately to the City of Mexico for the purpose of paying over the three millions according to the stipulations of

the treaty. It is expected that the Mexican Government will appoint a commissioner to repair to the city in company with us, to receive the payment. No circumstances are foreseen by us to render it necessary to use the papers furnished by the Treasury Department in regard to the remaining twelve millions.

In one of the conferences Mr. Rosa urged with much force the dangers of disorder in the City of Mexico in case our army should retire before the Mexican authorities had taken the necessary precautions. He also expressed some fear that their authorities might be interfered with by our army should they find it necessary to arrest and try certain individuals who, it is said, are plotting the overthrow of the Government; and to quiet these apprehensions as far as possible, we addressed a communication to General Butler. . .

We have the honor to remain, Sir,
With great respect,

Your obedient Servants,
A. H. Sevier
Nathan Clifford

The treaty of peace between Mexico and the United States provided for the cession of New Mexico and Upper California to the latter upon the payment of fifteen million dollars in installments of three million; the first upon the ratification, and the others annually thereafter.[1]

Protocol[2]

In the city of Queretaro, on the twenty-sixth of the month of May, eighteen hundred and forty-eight at a conference between their Excellencies Nathan Clifford

[1] *Compilation of Treaties in Force*, Government Printing Office, page 520.
[2] *Ibid.*, page 525.

and Ambrose H. Sevier, commissioners of the United States of America with full powers from their Government to make to the Mexican Republic suitable explanations in regard to the amendments which the Senate and Government of the said United States have made in the treaty of peace, friendship limits and definitive settlement, between the two Republics signed in Guadalupe Hidalgo, on the second day of February in the present year; and His Excellency Don Luis de la Rosa, Minister of Foreign Affairs of the Republic of Mexico; it was agreed after adequate conversation respecting the changes alluded to, to record in the present protocol the following explanations which their aforesaid Excellencies the Commissioners gave in the name of their government and in fulfillment of the Commission conferred upon them near the Mexican Republic:

1st. The American Government by suppressing the IXth article of the treaty of Guadalupe Hidalgo and substituting the III article of the treaty of Louisiana did not intend to diminish in any way what was agreed upon by the aforesaid article IXth in favor of the inhabitants of the territories ceded by Mexico. Its understanding is that all of that agreement is contained in the III article of the treaty of Louisiana. In consequence all the privileges and guarantees, civil, political and religious which would have been possessed by the inhabitants of the ceded territories, if the IXth article of the Treaty had been retained, will be enjoyed by them, without any differences, under the article which has been substituted.

2d. The American Government by suppressing the Xth article of the Treaty of Guadalupe did not in any way intend to annul the grants of land made by Mexico in the ceded territories. These grants notwithstanding the suppression of the article of the treaty, preserve the legal value which they may possess, and the grantees

may cause their legitimate [titles] to be acknowledged before the American tribunals.

Conformably to the law of the United States, legitimate titles to every description of property, personal or real, existing in the ceded territories are those which were legitimate titles under the Mexican law in California and New Mexico up to the 13th of May 1846 and in Texas up to the 2d March 1826.

3d. The Government of the United States by suppressing the concluding paragraph of article XII of the Treaty did not intend to deprive the Mexican Republic of the free and unrestrained faculty of ceding, conveying or transferring at any time (as it may judge best) the sum of twelve millions of dollars which the same government of U. States is to deliver in the places designated by the amended article.

And these explanations having been accepted by the Minister of Foreign Affairs of the Mexican Republic, he declared in name of his government that with the understanding conveyed by them the same Government would proceed to ratify the Treaty of Guadalupe as modified by the Senate and Government of the U. States. In testimony of which, Their Excellencies the aforesaid Commissioners and the Minister have signed and sealed in quintuplicate the present protocol.

(Seal) A. H. Sevier
(Seal) Nathan Clifford
(Seal) Luis De La Rosa

City of Mexico June 4, 1848

My Dear Wife

I embrase the occasion of Maj. Polks return to the United States to apprize you of my safe return from Queretaro to this city yesterday— Peace is concluded and the ratifications have been exchanged. Nothing remains to be done but to pay over the three Millions

which will be done in a few days when Col. Sevier will return to the United States. Mr. Buchanan has issued instructions which compel me to remain for a while— I will surely come home before winter & if the election in Maine turns favourable much earlier— I know that you & the children will be much disappointed & so am I but I cannot leave in violation of instructions as it would disgrace me. The President sent word by Mr. Sevier that he would give me leave to return early in the fall even if things went adversely in Maine & earlier if favourable— It will be rather lonely here after the army leaves but the path of duty I must pursue— Have no fears for me. I am under the protection of the flag of our country which under Providence will protect an American minister anywhere on the face of the Globe. The principal unhappiness I feel arises from the fears that you and our dear children will feel alarmed for my safety. I assure you I do not apprehend danger. The climate here is quite favourable & my health as good as it ever was in my life— Mr. Walsh and myself have taken a house & an American by the name of Hargous & his friend Wise will live with us. In a few days I will write you more fully— Accept the assurance that I remain as ever

Your husband

NATHAN CLIFFORD

CITY OF MEXICO,
June 27, 1848.

HON. JAMES BUCHANAN,
SECRETARY OF STATE

SIR:—

I embrace the opportunity presented by the departure of the bearer, Don Francisco Arangoes, for the United States, to say a few words upon the subject of his mission and the state of public affairs in this country. Scarcely

had the treaty of peace been ratified when the noted guerilla chief, Padré Jarauta, raised the standard of revolt in Aguascalientes, with the cry of "War and Death to the Americans." It is well understood that he was but the instrument of General Paredes,[1] who had been for sometime wandering about the northern provinces; and in a few days that incendiary threw off the mask, published a manifesto denouncing the treaty and the government, and marched upon Guanajuato, where there was a large accumulation of money and arms, with a band of four hundred men. He succeeded in getting possession of the town, and drove out the Governor and Legislature who refused to countenance his "pronunciamiento." By the defection of a part of the troops sent against him, his force was increased to some eight hundred followers, and he has taken up a position and fortified himself in the neighborhood of Guanajuato. The states have all declared against him, and in some of them the National Guard have risen and joined the regular troops under General Bustamante, who is to attack him, according to the last accounts, today. If the regulars continue faithful, there can be little doubt of a favorable result; but unfortunately there is not much dependence to be placed upon them. One of the first acts of the present administration was the patriotic one of striking a blow at the army, which has ever been the curse of the land, but which is still potent for mischief and has been generally exasperated by the curtailment of its privileges. It is hoped, however, that the presence of the National Guard and the universal execration of Paredes, may keep it in control. A day or two more will solve the problem; and should the government be successful, they may be able to sustain themselves and afford a chance to this unhappy people to begin a new era of tranquillity and improvement. If they fall, chaos is

[1] At one time President of Mexico. Smith, vol. i., page 212.

literally come again; and it will hardly be possible for the United States to avoid being once more embroiled in the affairs of Mexico, with what consequences to our country it would be futile to predict. Under these circumstances, the Government is anxious to obtain such aid from our Union as may enable them to ward off the impending danger and prevent the disasters which may ensue. The details of the arrangement contemplated will be stated to you by Sr. Arangoes, and I doubt not that every assistance which the President may deem himself authorized to grant, will be promptly and cheerfully given. The present crisis is the turning point in the fate of this country and, for good or evil, its results will be permanently operative.

Without any definite knowledge either of the precise character or of the extent of the powers entrusted to Sr. Arangoes, I understand generally from the Minister of Foreign Relations, that he is authorized and instructed to negotiate an arrangement with the United States for a military force of four thousand men, to be placed under the direction of this government, to aid in suppressing insurrection and rebellion as well as to protect the white inhabitants from the horrors of Indian massacres to which, in several places, they are now exposed. The proposition is an important one and well deserving, as it seems to me, the favorable consideration of yourself and the President. Torn by factions and demoralized by a long series of revolutions, and experiencing severely the consequences of the war with the United States now happily terminated, Mexico must have assistance for a time to enable her to reanimate the patriotism of her people and, in the meanwhile, to preserve public order, and even her very nationality, from the evil machinations of the reckless and treasonable ambition of some of her military chieftains. The present Government which is worthy of the con-

fidence of the United States, needs assistance, and must have it, I fear, to meet with success all the difficulties and embarrassments with which it is surrounded, and to fulfill the just expectations of those who have placed it in power. If that assistance cannot be obtained in the United States, to which General Herrera[1] is first inclined to look as to a sister Republic, I think it highly probable that it may be sought wherever it may be found. It will be borne in mind that the present administration is republican in the strictest sense, and the first constitutional government that Mexico has enjoyed for many years. General Paredes who is plotting its overthrow, is a monarchist in principle and an enemy, I believe, to all free institutions. Should he succeed, destitute as he is of administrative qualifications and attainments, it is not supposed that any administration he may form will be able to stand for any considerable time. The consequences will be that revolution will succeed revolution, rendering life and property insecure, and prostrating the best interests of commerce and everything like social order, until the impulses of humanity shall compel foreign nations to come to the relief of the country.

I have the honor to be, Sir,
With great respect,

Your obedient Servant,
NATHAN CLIFFORD

CITY OF MEXICO,
July 25, 1848.

HON. JAMES BUCHANAN,
SECRETARY OF STATE.

SIR:—

I deem it my duty to apprize you that the signs of the times in this country are growing daily more inauspicious

[1] Supported Peña. Later President. Smith, vol. ii., pages 179–180, 252.

for the present government of the Republic. Its best friends begin to entertain most serious apprehensions that it may not be able much longer to hold out against the combinations which are forming with a view to its overthrow. Two attempts at revolution have recently been detected in this capital, in the last of which, it is said, the conspirators well nigh succeeded in their plan for seizing the President and the members of his cabinet. It is understood that Colonel Riley was engaged in this last attempt, and the scheme was defeated through the disclosures of some of the men of his command. He was immediately arrested and is now in confinement. The result of the affair at Guanajuato falls greatly behind the expectations of all the well wishers of the present government. It was quite too bloodless to have much beneficial effect either in strengthening the hands of the dominant party or in allaying the hopes or exciting the fears of its opponents. True it is that Jarauta was taken prisoner and shot, for which all good men rejoice; but Paredes who is far more dangerous as a rallying point of rebellion, was permitted to escape with all his force, leaving upon the field, according to the best information I can obtain, the beggarly number of one killed and two wounded. Considering that the national treasury has been so recently replenished from the fruits of the treaty of peace, and that the government has applied all its energies to the expedition, the result has occasioned very great disappointment and almost universal chagrin. All inquire what may not be expected after the lapse of a few months when the government will find itself with an empty treasury and destitute of the means not only for increasing its present military force, but of supporting that which it now has in the field.

In view of all the circumstances, I consider it proper to ask the instructions of the President as to the course he

would desire me to pursue in case the present administration should be overthrown and the government fall into the hands of some military usurper. It would present a question which I should be unwilling to decide without advice from him. Should such an event unfortunately occur before such advice can be obtained, it is highly probable that I shall regard it to be my duty to await your instructions. . . .

I have the honor to be, Sir,

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

CITY OF MEXICO,
Aug. 8, 1848.

HON. JAMES BUCHANAN,
SECRETARY OF STATE.

SIR:—

I have the honor to enclose a copy of a confidential communication addressed to me by the Minister of Foreign Relations under date of the 6th instant, and to request in his behalf that you will embrace an early opportunity to lay it before the President. The object of the communication is to open negotiations for an arrangement by which the Mexican Government may be enabled to realize the next two instalments of the treaty of peace before the time when they will fall due by the terms of the treaty. The state of their public finances renders some such arrangement not only highly desirable to them but perhaps indispensable, to enable them to carry on the government. After receiving a pretty full account of this present situation I have consented, in view of all the circumstances and especially of the peculiar emergency in which the government finds itself at the close of the war, to transmit the proposition to you and to

recommend it to the favorable consideration of the President. I cannot doubt that I will be justified in embracing the occasion to add one or two reflections to those heretofore suggested, in support of my view that it is the true policy of the United States under existing circumstances to cultivate the most friendly relations with the present Government of this Republic. The policy is recommended, as it seems to me, not only as an act of justice to those who have had the responsibility in ratifying the peace, but by every proper consideration connected with the prosperity and welfare of both countries. The present administration truly represents that class of opinion that made and consummated the peace, and is disposed to fulfill the stipulations of the treaty in good faith. The government being fully organized and duly constituted in all the branches, it cannot be overthrown without trampling under foot the Constitution of the country and annihilating in my opinion, all hope of republicanism in Mexico for many years to come. The United States have nothing to expect, either on the score of good will or of commercial advancement from those who desire its downfall, or from any system which they may build up upon the ruins of the Constitution of 1824. While there is nothing good to be expected from the plotters of rebellion, it is far otherwise with those now in power. Should the present government be able to sustain itself, I have reason to believe that Mr. Otero will be found ready to negotiate with the United States upon liberal terms for new commercial regulations and other matter, whenever I may find myself authorized to propose these subjects for his consideration. It is also the intention of President Herrera, I learn, to recommend to Congress important improvements with respect to their domestic policy, which, if adopted will assimilate the institutions of the Republic more nearly to those of the United States. He appears to be deeply impressed with

the nature of our institutions, and is sincerely desirous, I think, of copying them as far as he can be sustained by the public sentiment and the limited enlightenment of the people. It is true that the national prejudice towards our country is somewhat inveterate but it is a source of gratification to be able to say that I perceive already some evidence that it is giving way in quarters well calculated to exercise a beneficial influence upon the future intercourse between the two countries.

Should the President be inclined to accede to the proposal in whole or *in part* it will be received by the government here as an act of national liberality and favor, and cannot fail, I think, to have a good effect in allaying the animosities of the people and strengthening the bonds of peace. Knowing the sensitiveness of the Mexican people in regard to every thing connected with their foreign relations, you will pardon me, I presume, for suggesting that no publicity ought to be given to the matter if the President should find it to be his duty to decline the proposition either from want of power or for any other cause. No doubt you will agree with me that if we cannot aid them, we can at least avoid doing them injury.

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

CITY OF MEXICO
September 13, 1848.

HON. JAMES BUCHANAN,
SECRETARY OF STATE

SIR:—

The state of public affairs in this country remains without any perceptible change since the date of my former despatch in which I had the honor to make some allusion to the subject. Notwithstanding the city is

constantly filled with rumors of revolutions and with reports anticipating the return of General Santa Anna, the Government of President Herrera is still in power with about the same prospects of continued success that it had at the departure of the army of the United States. It is difficult, however, to predict in advance what a day may bring forth. The Minister of the Hacienda, Mr. Riva Palacio, resigned some two weeks since and his place was supplied by Antonio de Icaza who, after remaining in office for a short time, voluntarily retired, leaving the department for several days without a head. Señor Don Manuel Pina y Cuevas was nominated and confirmed on Saturday last, and has since been duly installed into office.

The nomination of Luis de la Rosa as Envoy Extraordinary and Minister Plenipotentiary to the United States is now pending before the Chamber of Senators. Should his nomination be confirmed he may be expected in Washington in the course of the ensuing November. We are without news from the United States, there having been no arrivals since the departure of the army. The British mail, which has been due for several days, is hourly expected, when I hope to receive despatches.

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

DEPARTMENT OF STATE,
WASHINGTON,
7th, August 1848.

TO N. CLIFFORD, ESQUIRE,
Etc., etc., etc.

SIR:—

The despatches from your Legation to No. 19 inclusive, have been received.

The President, by and with the advice and consent of the Senate, has appointed you Envoy Extraordinary and Minister

Plenipotentiary to the Mexican Republic. I herewith transmit your commission with a sealed letter of credence to the President of that Republic and an open copy of the same. You will communicate the copy to the Minister for Foreign Affairs with a note requesting him to inform you when you may present the original to the President in person. After you shall have been received by the Mexican Government under your new commission, the President is willing that you shall visit the United States in compliance with the request contained in your number 16. The time of your departure from Mexico is left to your own discretion, in view of the important interests intrusted to your charge. You will present Mr. Walsh to the Minister for Foreign Affairs as Chargé d'Affaires *ad interim.*

The President knows that you will absent yourself from your post no longer than may be consistent with your duty to make "suitable provision for the permanent comfort and happiness of your family." There has been as you are aware no period in the history of our relations with Mexico when it was more important than at the present moment to have our country ably represented at the capital of that Republic. The irritation of feeling arising out of the late and to the Mexicans disastrous war, ought to be soothed; the machinations of foreign governments injurious to the United States ought to be counteracted, and the Mexican Government ought to be persuaded to abandon their absurd and unreasonable tariff. These are important objects of your mission, requiring your personal attention. If you can succeed in accomplishing them, you will acquire and deserve the gratitude of your country.

In the present distracted state of Mexico, the Department will expect to learn regularly the progress of events from your Legation, and you will enjoin the performance of this duty on Mr. Walsh during your absence.

Your despatch No. 14 of the 27th June, was not received from Señor Arrangoiz, until the 3d instant. On the same day he called at the Department, presented his credentials and informed me of the object of his mission. He said it was

the desire of the Mexican Government that the United States should furnish to Mexico three or four thousand troops, to be employed, in the first place, against the Indians of Yucatan, and if need be, against the Indians of other portions of Mexico. In case of necessity, they would, also, be employed to sustain the present government against revolutionists. He proposes that they should receive from Mexico the same pay and rations as troops of the United States, and in all other respects should be placed on the same footing, and is willing that the next instalment of three millions under the Treaty due on the 30th day May 1849, should be applied to this purpose.

His verbal propositions have been submitted to the President in Cabinet Council, and after full consideration they were decided to be impracticable. Such an arrangement, in order to bind Mexico, must assume the form of a Treaty and be submitted to the Senate; and it is very certain that two thirds of that body would not at present advise and consent to its ratification. But even if their concurrence were probable, there is not now time before the close of the session (Monday the 14th instant) to have the question discussed and decided by that body.

The President himself, as you are aware, does not possess the power to employ the army beyond the limits of the United States, in aid of a foreign country, without the sanction of the Treaty making or war making power: and it is morally certain that neither the one nor the other could be obtained under existing circumstances.

Besides, to employ the army in this manner would be contrary to our established policy not to interfere in the domestic concerns of foreign nations, and this ought not to be violated unless under extraordinary circumstances.

Even if all other difficulties could be overcome, Congress would have to raise additional troops for the purpose. The present army of the United States since the discharge of the ten regiments and the volunteers, is barely sufficient for the necessary service at home.

I have this morning had a conversation with Señor Arrangoiz and communicated to him these views of the President on the

subject of his mission. He appeared to be satisfied that it was impossible to accomplish the object during the present session of Congress; but he expressed a hope that something might be done at the next session in case the situation of Mexico should then require our aid.

The President and the people of the United States sincerely desire to maintain the most amicable relations with Mexico. They cordially wish that the present government may be able to sustain itself against its enemies, and they deprecate the success of Paredes. This would again commence the unfortunate career of revolution which Mexico has so long pursued with such disastrous consequences, and I fear would end in dismemberment and total anarchy. The pacific and eminently patriotic character of President Herrera affords a sure pledge for the prosperity of Mexico, should he be able to retain his power, and all our feelings are enlisted in his favor. It is therefore with painful reluctance that the President feels himself constrained to decline his request, at least for the present. You are instructed to explain in the most friendly manner the reasons of this refusal, and make them as acceptable as possible. It is hoped from the news received this morning of the defeat of Parades and the capture and execution of Jarauta, that Mexico may not require foreign aid.

I am, Sir, very respectfully,

Your obedient servant,

JAMES BUCHANAN.

LEGATION OF THE UNITED STATES
CITY OF MEXICO,
October 3, 1848.

HON. JAMES BUCHANAN,
SECRETARY OF STATE.

SIR:—

I had the honor to receive your despatches numbered from 2 to 5 inclusive, on the 27th ultimo. Those entrusted to Mr. Arangois were delayed in New Orleans, I

understand, in consequence of his failure to secure a passage in the British Packet. The one enclosing my commission and other documents which you caused to be forwarded to the British Consul in New Orleans, was doubtless detained for a similar reason. The packages came to hand unbroken and, of course, bringing all their enclosures. Your despatch No. 1 has never been received, the series commencing with No. 2 enclosing my commission. I have to tender my sincere acknowledgments to the President, not only for the permission he has given me to visit the United States, but for the very acceptable terms on which the leave has been granted. Considering the generous confidence he has reposed in me, I do not feel at liberty to embrace the offer while there is anything remaining for me to do requiring my immediate personal attention. It is scarcely possible that I can be ready to start much before the first day of November. The first intimation that my request had been granted, was received from Commander Carpenter, to whose letter communicating the fact I immediately replied. . . .

. . . In pursuance of the arrangement indicated in the last note, I presented my letter of credence yesterday to President Herrera in a public audience held for the purpose, and was received in a manner entirely satisfactory. Immediately after my reception, I delivered the letter from the President, which was accepted by General Herrera apparently with much satisfaction. This letter came to hand in a good time, and will have a beneficial influence in allaying the groundless suspicions which had been created in the public mind by the periodicals of both countries. . . . The opportunity was gladly embraced by me to give assurances which appear to be satisfactory. The importance of these assurances will doubtless be appreciated, when I inform you that the Mexican Government are now deliberating upon a

revision of their tariff, with a fair prospect of a good result. I enclose a copy of my remarks on presenting my letter of credence, as well as of those made by me on delivering the letter of the President—also copies of the replies of President Herrera.

In a day or two I will make the explanation to Mr. Otero in obedience to your instruction, and make known to you the result of the conference by the first opportunity. No doubt is entertained that they will be satisfactory. The commissions of the newly appointed Consuls were duly received, and the matter shall be promptly arranged. . . .

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

CITY OF MEXICO,
October 4, 1848.

DEAR SIR:—

Should my remarks on presenting my credentials and the President's letter, in the double translation to which they will be subjected before they reach Washington, meet with the fate that befell those made by me, in the name of the Diplomatic Corps I must beg of you to cause them to be published in a correct version. On that occasion in speaking of the climate, soil and productions of Mexico I characterized the country as "a garden spot of the earth" which is not very far from the truth. When the remarks reached the United States, amongst several other errors, the word "paradise" was substituted for "garden" which is not quite synonymous in modern times. The newspaper here rendered "garden spot" by the Spanish word "*paraiso*" which is certainly not a good translation. The word has at least two significations: 1. Paradise, 2.

any delightful place. The translator used it probably in the second meaning.

When the remarks were reproduced into English in the United States the translator adopted the first meaning, and thus I was made to have spoken of Mexico as "the paradise of the Earth" which I fear may not be believed.

Very respectfully,

NATHAN CLIFFORD

LEGATION OF THE UNITED STATES,
MEXICO,
October 13, 1848.

HON. JAMES BUCHANAN,
SECRETARY OF STATE.

SIR:—

. . . The initiative of a law for the appointment of a Commissioner and Surveyor to run and mark the line between the United States and Mexico under the treaty of peace, is now before the Mexican Congress with a fair prospect of its passage during the present session, which will close on the 25th instant. It is the opinion of Mr. Otero that the Commissioners of the two countries ought to assemble at the post of San Diego in the month of February next, which he regards as by far the most favorable month in the year to commence the operations.

It is my intention to start for the United States on the first day of November. The Mexican Minister, Mr. Luis de la Rosa, will accompany me. We hope to reach Washington about the 16th or 18th of the month. Additional correspondence between Commander Carpenter and myself is enclosed.

With great respect,

Your obedient servant,

NATHAN CLIFFORD

U. S. Steamer Iris,
Off Sacrificios,
October 1, 1848.

Sir:—

I am honored by your communication of the 26th ultimo and am happy to say that I know of nothing to prevent my waiting for you during the designated period. The only thing is the season, and I ought to inform you that while this vessel is new and perfectly seaworthy in every other respect, we are prohibited from carrying more than 10 pounds of steam by the defective condition of the boilers.

The boilers were repaired before I took command in May and have not undergone the slightest change since, so that I am warranted in saying that, for the above amount of steam they are perfectly safe. The only difficulty would be that with heavy head winds likely to prevail more and more at this season, we should be liable to a long and necessarily anxious passage.

It will afford me the greatest pleasure to receive His Excellency Sr. Rosa on board and family, and to extend to them all the accommodation in my power. In some respects the *Iris* is very well fitted for their comfort and convenience, but they must bear in mind that she is not one of our regular vessels, and make allowances for what may fall short of their expectations.

I cannot think that the public service will suffer the least detriment from the proposed arrangement and hoping to hear from you soon again,

I am etc. etc. E. W. Carpenter.

Hon. N. Clifford,
Etc. etc., etc.

Mr. Clifford arrived in New Orleans on his way home November 15, 1848. The presidential elections had gone against his friends. Lewis Cass, the Democratic nominee, had been defeated by Gen. Taylor, the hero of Buena Vista. This meant that Mr. Clifford's stay in Mexico after his return must needs be short.

In December, 1848, he was again on his way to the land of the Aztecs.

Pensacola (Florida) Jany 8, 1849

My dear Daughter

You will see by the date of my letter that we are still in the United States. We remained two days in New York and two in Washington & consequently did not reach Mobile in season to proceed to New Orleans in time to take passage in the British Parkuet. Accordingly I turned aside to this place which is perfectly healthy & entirely free of the cholera. We shall take passage in the *Walker* the latter part of this week for Vera Cruz— It is said to be a very safe steamer. We have three gentlemen and two ladies in our company Mr. Gallagher & wife his brother & sister and Mr. Bolton. Your mother & the children are in good health. At Montgomery we went on board a boat which had the cholera in it but immediately left it as soon as the capt informed us that the disease was among the crew— We afterwards learned that three died on the passage to Mobile— We remained but one night in Mobile when we took passage for this place which is as healthy as Newfield.

Saturday we visited the Navy yard and were received and entertained in a very appropriate manner

Henry & Franklin are very happy & in better health than when we left— I think you and Fanny must be happy—

Write Charles & Nathan & to Newfield & tell them we are in good health & spirits—

Your father,
Nathan Clifford

Pensacola,
January 9, 1849.

Hon. James Buchanan,
Etc., etc., etc.

Sir:—

I have the honor to acknowledge the receipt of your despatches Nos. 8 and 9 together with the enclosures.

The packages came safely to hand by the last mail from New Orleans, having been forwarded, I presume, by the Postmaster of that city. The perusal of their contents has very much increased my anxiety to hasten back to my station. You will notice by the commencement of this communication that I am still in the United States and I am sorry to add, with little or no prospect of being able to embark before the latter part of this week, and deeply mortified at my detention and anticipating that it will be a subject of regret to the President, I deem it proper to state very briefly the circumstances which have led to it, from which you will perceive that the delay has resulted from causes beyond my control, and was in the strictest sense unavoidable on my part, without having exposed my wife and children to dangers which no man of common prudence would ever consent to do. When I reached the Alabama River I found that the Steamer *Montgomery* was the only one in readiness to receive passengers for Mobile. She had just arrived from that city, and during her trip up that river one of her passengers had died of the cholera. The newspapers represented the cholera to be very prevalent in New Orleans, and according to some accounts it had commenced its ravages in Mobile. The alarm prevailing in the place rendered it difficult to collect any very satisfactory information in regard to the condition of the *Montgomery*. In this respect I was much indebted to the politeness of Walker Anderson Esq. of this place. The result was that Mr. Anderson and myself determined to proceed to Mobile. But shortly after we entered the boat, Capt. Johnson came forward and informed us that the cholera had again broken out on board and that one of her crew was then under the charge of an eminent physician who entertained no doubt that the disease was the Asiatic cholera. My family appearing to be somewhat alarmed, I thought it my duty to return to the public

hotel from which I had taken them somewhat against the opinion of the circle with which I was surrounded. Having since learned that three persons died on board the *Montgomery* during that trip I feel no regret for the course which I pursued. Whether the disease be contagious or not, I could not feel justified in submitting my family to such an immediate contact with it, while the means remained available to avoid the exposure. We took passage in the next boat, the *Orleans St. John* which did not reach Mobile till the morning of the 31st ultimo too late to think of proceeding to New Orleans with any view of a passage in the British packet.

Having thus failed to arrive in time to secure passage in the British packet, I had hoped to be able to avail myself of the authority given me by the Secretary of the Treasury to employ the Revenue Cutter *Walcott* to convey myself and family across the Gulf. But unfortunately the *Walcott* turned out to be wholly unseaworthy for a voyage to Vera Cruz at this season of the year. She is a small schooner of 85 tons only, built in 1828, with some of her timber in a state of decay, and at the present time in a bad state of repair even for the purposes for which she is generally employed. Her officers, though ready to obey any order I might deliver to their Commander, were unanimously of opinion that the voyage if undertaken must be attended with very considerable hazard. Some of them expressed the opinion that if they should be successful in reaching Vera Cruz the return voyage could not be made short of a month. Every person with whom I consulted advised me not to attempt to cross the Gulf in the *Walcott*. In view of all the circumstances and acting upon the best advice I could obtain, I determined to embark for this place and fall back upon the contingent instructions given by the Secretary of the Navy to Com. Newton who is in command at the Navy Yard. In

determining upon this course I was much influenced by the enclosed letter from Com. Newton addressed to the Collector of the Port of Mobile, which he very politely placed in my hands the morning after my arrival in that place. Upon the receipt of this letter and by the advice of Mr. Saunders I immediately crossed over to the east side of the Mobile Bay with a view to take passage in the *Walcott* for this place and after considerable detention which it is unnecessary to explain, arrived here on Friday last perfectly convinced by my own observations of the unfitness of the *Walcott*, for a voyage at this season of the year across the Gulf. There being no vessel of war at this station and no reliable information where one may be expected Com. Newton has determined very properly, I hope you will think, to send me to Vera Cruz in the Steamer *Walker*. The *Walker*, I believe, is at the present time attached to the coast survey. She is a fine steamer, apparently of about 400 tons, staunch and new and in good repair and will be ready for sea during the week. While I was at Washington Mr. Walker expressed much regret that he could not afford me a passage in that steamer at the same time, remarking that it was the one I ought to have and that he only forbore to issue the necessary instructions as, I believe, because he supposed her repairs had not been completed. Recollecting the conversation I ventured to assure Com. Newton that should he decide to send me out in the *Walker* his conduct would be unquestionably approved. Will you do me the favor to mention the subject to Mr. Walker who, I am sure, will take pleasure in adopting the necessary measures to guard Com. Newton against the possibility of censure. Entertaining no doubt that Mr. Walker would have given me authority for this steamer instead of the *Walcott*, if he had anticipated that her repairs would have been completed in season for my purpose, I felt no hesitation

whatever in giving the assurance before spoken of to Com. Newton. Under the circumstances I trust that my course may be approved by the President. Be assured that the residue of my journey will be performed with all the despatch in my power to employ.

N. Clifford

Legation of the United States,
City of Mexico,
Feb. 13, 1849.

Hon. James Buchanan,
Secretary of State.

Sir:—

I have delayed informing you of my arrival in this city until now, for the want of any reliable means of transmitting letters to the United States. I reached here on the 30th ultimo with my family, who, I am happy to say, are in perfect health. Notwithstanding the repairs of the *Walker* were completed about the time indicated in my letter of the 9th ultimo, my stay at Pensacola was protracted a few days longer than I had anticipated in consequence of unfavorable weather, which, in the opinion of her officers, rendered it inexpedient to attempt to cross the bar. We left the Navy Yard on the 16th and reached the anchorage at Sacrificios in six days and six hours, making one of the most pleasant voyages I have ever experienced in crossing the Gulf. It was in a measure the experimental trip of the *Walker*, and in my judgment it proves her to be a good sea vessel for one of her class. When her machinery has been longer used I have no doubt her speed may be considerably increased. During the last twelve hours before reaching Sacrificios the wind blew very fresh from the North, causing the waves several times to break over the wheel-house, and yet she rode out the gale

not only without danger, but without causing any alarm to the passengers. The wind continuing to blow, it was found impossible to effect our landing, which was not accomplished until the morning of the 24th. While we were lying at Sacrificios the United States Sloop of War *Saratoga* came in from a cruise and anchored alongside the *Walker*. Of course the usual civilities among the officers were exchanged, and I take great pleasure in remarking that I was much indebted to Captain Nicholson and his officers for various acts of hospitality and kindness during our unexpected sojourn at that anchorage. The officers of both vessels accompanied me on shore, and escorted me with my family to the house of the American Consul. The usual salute was fired from the Castle of San Juan de Uloa and promptly returned from the *Saratoga*.

At Vera Cruz I found that the necessary arrangements had already been made for my journey to this city, in anticipation of my arrival. The customary order of the Mexican Government providing an escort for the road, had been waiting my arrival for ten days. That order, for the most part, was pretty well obeyed and executed. From Santa Fé to the National Bridge we had no guard whatever. Our reliance for protection was upon the arms in the Diligence, which were sufficiently numerous and in good hands. No attack was made upon us, nor was a robber seen by any one of my company throughout the journey. The precautions which the Government took for my security from Puebla to Mexico were very ample, as you will perceive from the enclosed note from General Arista, the Minister of War, which he very politely forwarded to me at Puebla.

At El Pinon I was met by the principal American citizens of this city and welcomed back to my residence among them in a manner far beyond what any services I have

been able to render either them or my country entitled me to expect, or which I can claim to deserve. The journey taken altogether, though fatiguing and occasionally fraught with incidents somewhat perplexing, was interesting and fortunate. It is well that I did not proceed to New Orleans in order to embark in the British Packet. Had I done so, my stay would have been protracted four weeks longer, to say nothing of the dangers to which my family would have been exposed during the last month in New Orleans.

On the 1st of the present month I called upon President Herrera and the Minister of Relations, and of course from that day resumed the duties of my mission. The state of public affairs in this country has remained, during my absence, without any essential change. The resignation of Mr. Otero, and the substitution of Mr. Cuevas, as Minister of Relations, does not weaken the administration in the popular confidence, and certainly adds something to the amount of talent and experience possessed by the Cabinet. There are still some doubts existing whether Paredes has positively left the country. Common report says he embarked in the British Packet of December, while in closer circles, it is whispered that he is still waiting in the State of Puebla ready to embrace a favorable moment to join in an attempt to overthrow the present government. It is also certain that the rumors anticipating the return of General Santa Anna have not abated. On the contrary, during the last three or four days they have been circulated through the city with increased confidence and boldness, giving rise not only to repeated and earnest conversations, but to frequent newspaper discussions. The Congress is in session, but as yet has made so little progress in questions of public importance that it would be vain to predict what may be the result in any matter interesting to the United States. The duties

of the Legation which, as you know, devolved upon Mr. Walsh during my absence, have been conducted by him in a manner highly satisfactory to me and, as I think, creditable to him, which is no more than I had anticipated from his known tact, experience and accurate knowledge in diplomatic affairs. Immediately after I paid my official visits to the President and Minister of Foreign Relations he, of course, resumed the duties of his place as Secretary of Legation. It affords me sincere pleasure to inform you that the fracture which he received in the left arm is nearly recovered and cannot, I think, result in any permanent injury. . .

The Mexican Government have acquiesced without hesitation in the arrangements suggested in your instructions, as well in regard to the escort for the protection of the Commissioner to run the line, as in regard to the scientific corps to accompany him and the Surveyor. The course indicated by the President seems indeed to be in perfect accordance with what the Mexican Government had previously adopted. In order, however, to guard against the possibility of any future misunderstanding and to carry out literally your instructions, on the 10th instant I addressed a note to the Minister of Relations upon the subject, to which he very promptly replied and in a manner, as it seems to me, entirely satisfactory. . . . In my view of the matter these two notes effectually accomplish the object pointed out by your instructions, and constitute a full compliance with the corresponding articles of the treaty. Should a more formal agreement however, be thought advisable, it can be obtained without the least difficulty. . . .

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

Department of State,
Washington,
2nd March, 1849.

To Nathan Clifford, Esquire,
Etc., etc., etc.

Sir:

I enclose to you copies of two notes, the one of the 23rd and the other of the 24th ultimo, received at the Department from Mr. de la Rosa, since the date of my last despatch.

It is difficult to conceive what can be the object of Mr. de la Rosa in pursuing so pertinaciously the question of the Protocol. He nowhere states or even intimates in what particular the explanations contained in it are, in his opinion, at variance with the amendments of the Senate to the original Treaty. Indeed, he expressly declares that he "will not enter into the discussion of the question whether the explanations thus recorded in this document and the understanding therein given to certain articles of the Treaty, are or are not, at variance with the intention and design of the Senate of the United States which modified those articles."

The President, in his message to the House of Representatives of the 8th February, last, expresses the opinion that these explanations are in accordance with the Treaty and gives his reasons for this opinion. If this be correct as we believe it to be, then no practical question can ever arise between Mexico and the United States on the subject of the Protocol. Why, then, the pertinacity of Mr. de la Rosa? Does he not believe that he has gained some advantage over Mr. Sevier and yourself by the Protocol, but this of a character which he is unwilling to specify?

The first rumors circulated in this city concerning the Protocol were that it had annulled the amendments of the Senate striking from the Treaty the 10th article, and restored to grantees of land in Texas all the rights which they would have enjoyed under this article. These rumors were speedily dissipated by the publication of the President's message and the accompanying documents. Still, it may be possible that the Mexican Government, urged thereto by Mr. de la Rosa,

will insist upon this outrageous construction of the Protocol. At all events, that Government should now be clearly and distinctly reminded of the character of this instrument under the Constitution of the United States, although upon this subject it is morally impossible they could have been mistaken. The notes of Mr. de la Rosa to myself have rendered this necessary. As you were one of the chief actors on the occasion, and are consequently well acquainted with all the particulars the President has deemed it proper to entrust you with the performance of this duty. Besides, this can be done more advantageously in Mexico than Washington, because it is almost certain from the circumstances that Mr. de la Rosa has been acting without express instructions, and I fear under unhappy influences to which he is peculiarly exposed from his entire ignorance of the English language. Had he sought an interview with me upon the subject in the first instance, instead of adopting the course which he has pursued, it is probable I might have convinced him, that although the Protocol is of no validity considered as a new agreement between the parties, yet that the exposition of the three points which it embraces, is a fair and legitimate construction of the Treaty and ought to be entirely satisfactory to his Government.

Mr. de la Rosa, in his note of the 24th ultimo, asserts that "this Protocol is a real Diplomatic Convention concluded between the Government of Mexico and that of the United States, and equally binding on both." And again: "In whatsoever light the Protocol may be considered, the undersigned firmly believes that the Government of the United States cannot do less than recognize in it, a Diplomatic Convention, as obligatory as the Treaty of Peace signed at Guadalupe." Now although the explanations contained in the Protocol present, in my opinion, the true exposition of the treaty; yet if this were otherwise and they should contain any new stipulation, any change or modification whatever of any article in the treaty, not in conformity with its letter and spirit, to this extent they are an absolute nullity. . . .

When the Senate of the United States deem it proper to make amendments to a treaty, it often becomes an indispens-

able, though a delicate duty for the Secretary of State, under the direction of the President, to afford to the Government of the other party explanations of these amendments. In preparing the letter of explanation to the Mexican Minister for Foreign Affairs, I used the utmost caution and care and resorted to the best sources of information. I am not aware that any portion of this letter has ever been criticised, much less condemned. The President considers that the explanations in the Protocol are in conformity both with the treaty and this letter. In communicating with the Minister for Foreign Affairs upon the subject, I trust, therefore, that you may be able to convince him that the Protocol contains a correct exposition of the treaty, and that the treaty thus explained secures to Mexico all her legitimate rights, in the same manner and to the same extent as though the Protocol had been made a part of the treaty, under the authority of the Mexican Congress and the Senate of the United States.

It would be lamentable indeed should this question, which does not appear to be of the least practical importance, produce unkind feelings between the two Republics at a moment when the future relations between them promise to be of the most auspicious character.

Your despatches to No. 38, inclusive, have been received.

I am, Sir, very respectfully,
Your obedient servant,
JAMES BUCHANAN.

On the inauguration of President Taylor, John M. Clayton was appointed Secretary of State.

LEGATION OF THE UNITED STATES,
CITY OF MEXICO,
April 12, 1849.

HON. JOHN M. CLAYTON,
Secretary of State,
WASHINGTON.

SIR:—

I avail myself of the opportunity afforded by the return of the British Packet, to transmit to you a copy

of an official note addressed to me by the Minister of Relations, under date of the 17th of March last, explanatory of an unfortunate affray that took place in the town of Tripuato, in the state of Guanajuato, between the authorities of that place and a party of American citizens en route for Upper California. It is doubtless well known to you that, since the discovery of the gold placers in California, great numbers of our citizens have availed themselves of the route through Mexico to pass into the new territories acquired by the United States under the late treaty of peace. Anticipating that such would be the case, I mentioned the subject to the Minister of Relations in February last, and received his assurance, not only that it was entirely agreeable to the Mexican Government that our citizens should pass through the Republic, but that all such as saw fit to take this route would receive every necessary protection. This conversation, I suppose, gave rise to the order of the Minister of War which accompanies the note of Mr. Cuevas. Since that period, several hundreds have passed through this city on their way to the different ports on the Pacific. They have generally travelled in parties varying from ten to thirty persons, and have seldom met with any impediment or molestation. The authorities have been liberal in granting passports, and each man is permitted to bear arms, which is an indispensable concession in order that they may protect themselves against robbers. Notwithstanding the liberal course that has been pursued by the Mexican Government, I consider it my imperative duty to call your attention to this melancholy exception on the part of the authorities of Tripuato, and to make known the steps that have been taken for redress. The first information I received of the occurrence, was derived from the Minister of Relations through the note before mentioned, and the report of the Alcalde that accompanies it. It

struck me at once that the account of the affray given by the Alcalde was incomplete and partial. Under the circumstances, I deemed it advisable to wait for more reliable and less interested information before attempting any reply. Several days afterwards I received a communication upon the subject from I. T. Hutton the Commander of the party, who, at the same time, transmitted to me various letters for the friends of the deceased, which will be duly forwarded by mail. A copy of the communication of Captain Hutton is enclosed. This statement, as it seems to me, shows very clearly that the unfortunate individual who lost his life in the affray, was entirely without fault, and that the whole proceedings of the authorities were without any sufficient justification. In this view of the case I should have deemed it my duty to reply at once to the note of Mr. Cuevas, if Captain Hutton had sent me the depositions spoken of in his communication. In the absence however, of authentic proofs to sustain my views of the case, I thought it more advisable, in the first instance, to call upon the Minister and speak to him verbally upon the subject, which I accordingly did, immediately after the receipt of that communication. I stated to him the substance of the facts as detailed by Captain Hutton, and informed him that, if the proofs sustained this view of the affray, I should deem it my duty to pass him a note urging every redress of which the nature of the case would admit. He manifested some surprise at this account of the conduct of the authorities, and expressed very great regret at the occurrence, informing me, at the same time, that orders had already been given for the arrest and trial of the offenders, which, he assured me, would be faithfully and promptly executed. In the course of the conference, he expressed a wish that my note might be delayed until the result of the investigation was known, which I have

thus far yielded to, as the depositions have not yet come to hand. I have written to our Consul at Mazatlan, in hopes to obtain them, or at least to ascertain whether there is any reason to expect that they can be obtained. When they are received, if they make good the allegations of Captain Hutton, I propose to reply to the note of Mr. Cuevas and place the transaction in its true light, unless, in the meantime, satisfactory steps are taken to punish the offenders. Any suggestions you may think proper to make upon the subject, I shall be pleased to receive and will readily follow. Judging from the usual delay that attends every legal proceeding in this country, there will be ample time for me to receive your view before the investigation will be closed. Notwithstanding this unfortunate occurrence, I do not apprehend any difficulty in the future for our citizens who may select this route to California. The course which has been adopted in the case, so far from creating any embarrassment to the future traveller, will, in my judgment, have considerable tendency to lessen those which previously existed, by teaching the subordinate authorities that an American citizen cannot be murdered with impunity. I am reassured by Mr. Cuevas that our countrymen who travel this way shall be duly protected against any molestation from those authorities.

In my last despatch I communicated a copy of the supreme order issued by the Minister of the Hacienda to enable the holders of tobacco imported under the American tariff, to exercise and enjoy the right secured to them by the 19th article of the treaty of peace. Noticing that the order had not been published, and several complaints having reached me that the subordinate officers refused to execute it, on the 9th instant I addressed a note to the Minister of Relations upon the subject, which, I trust, will have the effect to remove the difficulty. . . .

Since the date of my last despatch Francisco Arangois has been appointed Minister of the Hacienda in the place of Pina y Cuevas resigned. The new Minister is a young man of considerable promise, and hopes are entertained that he may be more successful and useful than his predecessor. The Congress is still in session, and will not adjourn, it is understood, until about the 20th of next month. The initiative of a new tariff is still pending. What the result will be it is as yet impossible to predict with any certainty. The bill is not so liberal as it ought to be, though far less prohibitive than the existing law. There is much danger that in a conflict of opinion it may be lost. Some oppose it because the rates are still too high, while others are not prepared to abandon the present system. The two extremes agreeing in opposing the suggested modification, perhaps the better opinion at the present moment is that it will be defeated.

I have the honor to be, Sir,

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

LEGATION OF THE UNITED STATES,
CITY OF MEXICO,
May 14, 1849.

HON. JOHN M. CLAYTON,
Secretary of State,
WASHINGTON.

SIR:—

I have the honor to acknowledge the receipt of the despatch of Mr. Buchanan, No. 15, instructing me to make certain explanations to the Mexican Government in regard to the paper called the Protocol, which was signed at Queretaro on the 26th of May 1848 by the Mexican Minister of Relations and the Commissioners of the

United States. The package containing it was postmarked at Vera Cruz on the 23rd ultimo and reached me in the regular course of the Mexican mail from that place. On the day of its receipt, the 27th ultimo, I called upon the Minister of Relations and had a pretty full conversation with him upon the subject to which it relates. This interview was deemed advisable in the first instance, before addressing him officially, lest by possibility his opinions had undergone some change in consequence of events that had occurred in the United States, which it was known had been very fully communicated to him by the Mexican Minister resident in Washington. In the course of the conference I made known to him that I had received the despatch, and explained to him without reserve the nature of the duty which it instructed me to perform. It was especially my object to impress upon his mind the true character of the paper under the Constitution of the United States, which seems to be the main purpose of the instruction. In order to test his opinion fully, I presented the question in the various forms in which I afterwards treated it in my official note. To all this he replied that, it being admitted that the explanations of the Commissioners are a correct exposition of the treaty as amended by the Senate, the whole discussion was a mere war of words, utterly destitute of any practical importance either to Mexico or the United States. It was not even suggested by him, nor has it ever been pretended by the Mexican Government, so far as I know, that the Protocol is susceptible of a construction to enlarge or restrict any of the provisions of the treaty as amended by our Senate, much less that it has any validity to effect any such unconstitutional purpose, even supposing that its language and intent could be thus perverted. On the contrary, he received the explanations without the least manifestation of surprise, and promptly assured me

that the subject involved no difficulty whatever. This was no more than I had a right to expect from Mr. Cuevas who was present when the paper was drawn up and doubtless well recollects that explanations similar in principle were made at the time by the Commissioners of the United States. Considering his high character and intimate acquaintance with all the circumstances, I did not doubt for a moment when approaching him, that he would meet the question in a manner worthy of himself and of the high place which he then filled. It was then arranged between us that my note should be presented to him on the following Monday at one o'clock in the afternoon and that his note in reply would be so framed as to supersede all necessity on my part to rejoin. This conference took place on the 27th ultimo, as before remarked. On the morning of the 30th I received a message from Mr. Cuevas informing me that unexpected engagements rendered it inconvenient for him to see me at the hour which had been assigned for our meeting, and expressing a wish that it might be deferred to a future occasion. Knowing that serious dissensions had for some time existed in the Cabinet, and being desirous of fulfilling my instructions without further delay, I sent the note, which was already prepared, to the office of Relations, and caused it to be placed in the hands of Mr. Cuevas, requesting the Secretary of Legation who bore it to inform him that I would call at such time as suited his convenience. On the following day I learned with much regret that the Minister had tendered his resignation to the President; and in a few days after that it had been duly accepted. It appears that Mr. Cuevas, finding it impossible to reconcile the misunderstanding between one of his associates and himself, suddenly took the resolution of retiring from the cabinet, which intention he carried into effect without opening my note and without any other knowledge of its

contents than what he had derived from the previous conference. The period that elapsed between his resignation and the appointment of a successor, was a very critical one for the administration of President Herrera. Party spirit broke out through the press into the most violent denunciations of the residue of the cabinet, and the feeling of discontent was so openly manifested that, according to the current rumors, the President himself thought seriously, at one moment, of retiring from the Presidential chair. In the midst of this excitement application was made to the Chamber of Deputies for the requisite license to enable the President to appoint Sr. Don Manuel Pena y Pena to the vacancy in the Department of Foreign Affairs. It seems that the nomination could not be made under the Mexican Constitution without the precedent consent of the Congress, Pena y Pena being at the time Chief Justice of the Supreme Court. The requisite license was refused in the Chambers by a majority of three votes. This was an unexpected triumph of the war party, as it is yet called, on account of its continued hostility to the treaty of peace and to every measure calculated to restore friendly relations between the United States and Mexico. One of the main points urged against the nominee was the fact that he was one of the leading actors in the events which led to the treaty, and that as acting President of the Republic, he had celebrated the peace between the two countries. The majority on the occasion was of course made up in part of votes from the moderate party, which is still largely in the ascendant, when united, in both Houses of Congress. The defeat of the "moderados," though deeply to be regretted, had at least one good effect. It taught them the necessity of harmony, and enabled the President to nominate an acceptable successor to Mr. Cuevas and to secure a pretty harmonious confirmation of his nomination. The new

Minister, Sr. Don Jose Maria de Lacunza, entered upon the duties of his office on the 10th instant, and it may be said of him that he has a fair prospect of receiving the necessary support of the Chambers to render his services useful to his country. During the day, I was apprized of his appointment by the acting Minister, as also through two notes which I received from Mr. de Lacunza. These last named notes are indited in very courteous and satisfactory terms evincing pretty clearly, I think, that he is disposed to cultivate the most friendly relations with the United States. Copies of the notes are herewith enclosed, as also copy of my reply, which was forwarded to the office on the following morning. Being desirous of transmitting a copy of the reply which the change in the Ministry had devolved upon Mr. Lacunza to make to my note addressed to Mr. Cuevas, I called upon him on the afternoon of the 11th instant and invited his attention to the subject. My views in regard to the character and effect of the Protocol being already before him in my note, I did not think it necessary to repeat them. The Minister, without any hesitation, informed me that, in his opinion, the paper could not be regarded as an addition to the treaty as amended by our Senate, and that in framing his note he should follow the views which had been taken of the question by the late President of the United States in his message of the 8th of February last, to the House of Representatives, assuring me, at the same time, that he considered those views correct, and that they were entirely satisfactory to the Mexican Government. When I commenced writing I had every reason to expect that the reply of Mr. Lacunza would be received in season to enable me to forward it with this despatch. In that, however, I am disappointed, as you will perceive from the explanatory note which was received on yesterday. Copies of my note to Mr. Cuevas and the last named note

of Mr. Lacunza are herewith enclosed. Should the Minister make good the assurances given at the conference, and which in effect are pretty clearly shadowed forth in his explanatory note, it may be assumed that every apprehension that any difficulty will grow out of this question, is at an end. It being a political rather than a legal question, it is safe to conclude that the courts of the United States will follow the construction adopted by the political department of the government. This rule has been uniformly adopted by the Supreme Court in the interpretation of treaties, even in cases where the American construction differed widely from that of the other high contracting party. Where both the contracting parties are agreed, it would be an absurdity, as it seems to me, to suppose that any tribunal of our country, state or federal, would undertake to overrule their solemn determination. Should any of our courts adopt a theory so unsound and so directly at variance with the repeated decisions of the Supreme Court, it would be error cognizable by that court, where it could be immediately corrected. Such are my views of the question, which I submit for consideration to your better judgment. If Mr. Lacunza has the moral courage to put on paper his own deliberate opinions, the discussion here will terminate with his response. How far he may feel embarrassed by the correspondence of Mr. de la Rosa, it is impossible for me to foresee. The prevailing vice of public men in this country is the fear of responsibility. Whether the Minister will suffer himself to be influenced by this consideration or not, the future will show. Should he attempt to assail any of the positions assumed in my note, I hope to be able to fortify them and demonstrate their correctness. That truth and justice are on the side of the United States I know, and I have yet to learn there is much to fear in a cause which has those powerful agents for its support.

Since writing the above, a second note from Mr. Lacunza has come to hand, which I hasten to lay before you. It appears from this note that Mr. de la Rosa has been instructed to close his correspondence and to forward all documents upon the subject to his government. In my opinion, this step augurs nothing unfavorable to the satisfactory termination of the discussion. With my last despatch I communicated a copy of my note to the Minister of Relations apprizing him of the difficulties that impeded the execution of the supreme order issued by the Minister of the Hacienda, under date of the 28th February last, to facilitate the transportation and sale of the tobacco imported during the American occupation. Herewith I enclose a copy of his reply, which has come to hand since that date. The supreme order was published on the 28th ultimo in the official journal, and some hopes are now entertained that the holders of the tobacco will be able to effect the sale without farther intervention on my part. My attention has been again called to the case of certain Americans who are confined in prisons in the city of Puebla under the charge of assassination and an attempt to rob. The delay of justice in this country, civil and criminal, is a serious evil and one that it is difficult to remedy. The federal government has no other power over the judiciary of the states than to "*excite*" the judges to a decision. That is done through the intervention of the Minister of Justice, and I am sorry to say it seldom has much effect. I have had occasion to invoke the exercise of this power on several occasions in favor of the Americans in Puebla, as also in behalf of an American citizen by the name of Garcia who, together with his wife, has been held in duress for a long time in Vera Cruz. Assurance was given by Mr. Cuevas not long before he resigned, that Garcia and wife would be discharged from their bond, and I hope soon to be informed that such has

been the result. Learning that very little progress had been made in the trial of the prisoners at Puebla, I made a third application to the government, insisting that they should either be tried or set at liberty. Enclosed are copies of the communication received in reply to my application. . . .

I have the honor to be, Sir,

With great respect,

Your obedient Servant,

NATHAN CLIFFORD

LEGATION OF THE UNITED STATES,
CITY OF MEXICO,
April 30, 1849.

The undersigned, etc., etc., has the honor to inform His Excellency that he has just received a despatch from his government instructing him to invite the attention of His Excellency to a paper called the Protocol, which was signed at Queretaro on the 26th of May last by the Mexican Minister of Relations and the Commissioners of the United States, and to explain and declare to the Mexican Government the true character of the paper under the constitution of the United States. It is proper that His Excellency should also be informed that this step has become necessary in the opinion of the Government of the United States, in consequence of certain official notes addressed to the Secretary of State of the United States by the Mexican Minister resident in Washington. In compliance with this duty he begs leave, in the first place, to revert to the circumstances under which that paper was drawn up. The Commissioners of the United States arrived at Queretaro on the 25th of May 1848, and had the satisfaction of learning that, almost at the very moment of their arrival, the treaty had been ratified by the Senate of Mexico, and that nothing farther remained to be done

than to exchange the ratifications. On the following day, their credentials were presented to the President of Mexico by the undersigned, then one of the Commissioners, Mr. Sevier being unable to attend at the interview in consequence of indisposition. In one of their notes to the Minister of Relations from this metropolis, the Commissioners had mentioned to him that they were authorized to give explanations of the changes which had been made in the treaty by the Senate of the United States and these explanations Mr. de la Rosa requested from them soon after their reception by the President. Accordingly, at a conference on the evg. of the same day, at the house of the Minister, these explanations were furnished by Mr. Clifford verbally, Mr. Sevier continuing too unwell to leave his room. Besides the Minister of Relations, there were present at the conference Don Luis G. Cuevas and Don Bernardo Couto, two of the Mexican Commissioners who had signed the treaty at Guadalupe Hidalgo. The same three gentlemen called at the residence of the Commissioners on the succeeding day, and Mr. Sevier then made the same explanations, in strict accordance with those previously given by Mr. Buchanan in his letter to the Mexican Minister of Foreign Affairs. It was then suggested by the Minister that it would be highly useful in the then existing state of public feeling at Queretaro, to put the explanations on paper. To this no objection was perceived by the Commissioners, they having already declared, in the most explicit terms, and it being well known and understood by the Mexican Government that they were invested with no power to modify, change or alter, in the slightest degree, the treaty as amended by the Senate of the United States and that the memorandum of the conversations could no more have the effect to enlarge or restrict the amendments made by the Senate than the conversations themselves which it recorded. The expla-

nations having been made by the Commissioners in good faith and the sincerest conviction that they were in exact accordance with the provisions of the treaty as amended by the Senate, they did not hesitate to accede to the request, especially as they had perceived many reasons to justify it in the elements of discontent with which the government was surrounded, and believed it to be for the interest of both countries to strengthen its hands as far as possible against the impending revolution with which it was threatened. The explanations were accordingly reduced to writing in Spanish by Don Bernardo Couto, and a translation of his draft was made into English, and the document thus prepared was signed by the Minister of Relations and the Commissioners and immediately published in all the newspapers of Mexico. It could never have entered into the minds of the Commissioners that the Minister was so slightly acquainted with the constitution of the United States as to suppose that they could bind their government as to the stipulations of a treaty without the fullest sanction of the Senate, even if they had not expressly informed him that such was not the fact; and the undersigned does not doubt that His Excellency, Mr. Cuevas, was fully impressed at the time with that conviction, that he still entertains it, and that he will not hesitate to act upon it with the frankness and good faith by which he is distinguished.

Such being the history of the document, such the circumstances and views under which it was signed, it is certainly a matter of surprise that His Excellency, Mr. de la Rosa, now Minister of Mexico in the United States, should have deemed it his duty to assert in the most formal manner, that "this Protocol is a real diplomatic convention concluded between the Government of Mexico and that of the United States, and equally binding on both." This assertion is the more astonishing considering that

Mr. de la Rosa had before him at the time the Protocol was drawn up, the letter of Mr. Buchanan of the 18th of March 1848, to the Mexican Minister of Foreign Affairs from which the undersigned begs leave to make the following quotation. "Your Excellency is doubtless aware that, under the Constitution of the United States, the advice and consent of the Senate is necessary to the validity of all treaties, and that this must be given by a majority of two thirds of the members present. Every treaty must receive the sanction of this august executive council in the manner prescribed by the Constitution before it can be binding on the United States." The assertion of Mr. de la Rosa cannot for an instant be entertained; and the undersigned, in carrying out his instructions, must be permitted to declare to His Excellency that, while the Government of the United States considers the Protocol a true exposition of the treaty and of the amendments made to it by the Senate, it, at the same time, regards it as of no force or efficacy whatever to enlarge or restrict any one of the provisions of the treaty. The treaty as amended must be construed by the appropriate tribunals of the United States entirely independent of the explanations of the Commissioners; and were it possible so to interpret them that they should contain any new stipulation, change or modification of any article of the treaty not in conformity with its letter and spirit, to this extent they are an absolute nullity. Under forms of government where the Sovereign or Chief Magistrate possesses exclusively the treaty making power, he may, perhaps, by a Protocol or other instrument, agree with the other party to modify or change a treaty in any manner he may think proper, after it has received his ratification. But under such governments as those of Mexico and the United States, where the approval of the Congress under the Constitution of the former, and the advice and consent

of the Senate under that of the latter, are necessary to give validity to treaties, no change whatever can be made in any treaty between such parties which has not previously received the constitutional sanction of the approving power. Such being the case, it follows as a necessary consequence, that the Protocol can never receive an interpretation either to enlarge or restrict the provisions of the treaty of Guadalupe Hidalgo as amended by the Senate of the United States. It is matter of great satisfaction to the undersigned in making this declaration in the name of his government, to know that in no event can any injustice result from it to Mexico, as both parties signed the explanations of the Commissioners as a true exposition of the treaty as amended by the Senate of the United States. But if it were otherwise, the Mexican Government still would have no ground of complaint. The amended treaty was approved by both branches of the Mexican Congress several days before these explanations were signed, and of course entirely independent of everything which they contain. Had the Mexican Government attached any serious importance to the Protocol, their course was plain. The Congress of Mexico ought to have approved and the President ought to have ratified the treaty with the explanations of the Commissioners as amendments. It would then have been returned to the President of the United States who might in his discretion have submitted it to the Senate for their advice and consent, and if this had been given, he would again have ratified it in its amended form. Without any resort to these constitutional sources of power, it is perfectly obvious that the Protocol has no validity to enlarge or restrict any article of the treaty, either under the Constitution of Mexico or that of the United States. It is impossible that the Mexican Government could have been ignorant of these well known truths. There was no want of information on the occasion

in regard to the provision of the Constitution of the United States prescribing the manner of ratifying treaties. The Commissioners referred to it and expounded it. The letter of Mr. Buchanan before alluded to recites it in language clear as light. Mexico had at different periods concluded treaties with the Government of the United States, always under the same constitution. The form of the ratification of the treaty in question, as well as of all the former treaties, must have taught her government that the President of the United States, without the advice and consent of the Senate, could enter into no valid treaty stipulation whatever with a foreign power. Surely, if it be admitted that the President could not exercise this high power of binding the people of the United States without the advice and consent of the Senate, it requires no argument to show that the Commissioners acting under his directions were equally destitute of any such authority.

In conclusion, the undersigned begs leave to reiterate his opinion that the explanations of the Commissioners are a correct and truthful exposition of the treaty as amended by the Senate of the United States. It is not known that anyone has seriously attempted to prove the contrary and it is believed that no such attempt, if made, will ever be successful. There being no difference in opinion on this point between the Government of the United States and that of Mexico, it would be lamentable indeed should this question, which does not appear to possess the least practical importance, produce unkind feelings between the two Republics at a moment when their future relations promise to be of the most auspicious character.

The undersigned, etc., etc., etc. N. Clifford.

His Excellency,
Sr. Cuevas,
Minister of Relations, etc., etc.

National Palace,
Mexico,
July 13, 1849.

The undersigned, Minister of Relations, has the honor to acknowledge the receipt of the Hon. Mr. Clifford's note of the 30th of April last, in which that gentleman, by order of the Government of Washington, communicates to him the opinion of that government, respecting the value and binding force to be assigned to the proceedings (*contenido*, contents) of the conferences, held at Queretaro between the Hon. Mr. Clifford and the deceased Mr. Sevier, and Señor Rosa, then Minister of Relations of the Mexican Republic.

The undersigned considers himself excused from entering into a discussion, respecting the force of the said document, whether as a new treaty, or as an addition to the Treaty of Guadalupe, or as a correction (*reformé*) or alteration of that treaty. The Government of the undersigned does not consider it necessary to support those conferences, under such a character, and conformably with the principles of national law which have been set forth at length on the part of the United States, principles which are similar in the constitutions of both countries, he does not doubt that it would be agreed, that if those explanations were to be considered under that point of view, it would not have yet reached its perfection.

But although they should not be considered as additions to, or modifications of the treaty, the undersigned considers that they should be regarded as a correct and true explanation of the treaty. They are thus regarded by the Government of Mexico, and the undersigned is happy to see that the Honorable Minister Plenipotentiary of the United States thus regards them, in the note to which the present is an answer. In this point of view their primitive and essential excellence, like that of every fair explanation, consisted and does consist in its not altering or modifying in any way the treaty itself, as approved by the legislative bodies, whose approval is required by the constitutions of both countries. The clauses of which a Protocol was drawn up were therefore clearer text (*readaccion*) of certain articles.

That which was maintained by the late President has been confirmed in the note now answered, and is ratified by the Hon. Mr. Clayton, in his note to Señor Rosa, in which he in so animated a manner, and so much at length, impugns the force of this Protocol, as a diplomatic convention, differing from the treaty, and affirms that the differences between the true sense of the treaty and that of the Protocol in question, have not been exposed.

With regard to the force of these clauses, as explanations, the Government of Mexico does not assign to them as much, as they would have had, if they had gone through the formalities required for a treaty, as I have already the honor to say; and still less than that which they would have derived, from a series of judicial decisions, pronounced in this sense: it does however assign to them, the force which they derived from the affirmation of the eminent persons, from whom they proceeded, persons who had every means of knowing the truth, and had been officially commissioned to speak it. One fact is certain, in these clauses, and it is, that the Governments of the United States and of Mexico, in signing and ratifying the treaty, intended its sense to be the same, with that of these clauses. To admit any other supposition on the part of the Government of the United States, would be supposing that it believed the contrary of what it affirmed, at that time to Mexico, of what the President of the United States afterwards affirmed to their legislative houses, and the Honorable Mr. Clifford now affirms to this government. As to the Government of Mexico, it has ratified the treaty in the sense established by these explanations which do not alter but merely render clear the clauses of that treaty.

There does not in consequence, appear to be any well determined point of ground, for the discussion of this affair, or for prolonging this correspondence; especially since in practice, as Mr. Clifford assures, there is no case of dispute. The Government of Mexico for the same reason believes, that these discussions should be considered as concluded, under the assurance that both governments are persuaded, that the clauses of the Protocol are the true and correct explanations

of the treaty, without altering it in any point. If therefore Mr. Clifford should, as the undersigned hopes, agree with him as to the propriety of putting an end to this affair, according to the terms indicated, he will give to the undersigned, the greatest satisfaction.

The undersigned renews to the Honorable Mr. Clifford, etc., etc.

I. M. de Lacunza.

Legation of the United States,
City of Mexico,
July 13, 1849.

The undersigned, etc., etc., acknowledges the receipt of the note of His Excellency, etc., in reply to the one which he had the honor to address to His Excellency's predecessor on the 30th of last April, in regard to the Protocol. It gives him great gratification to state that the note is, in all respects, satisfactory, and will have the effect to settle the question in a manner equally honorable to both countries. In order, however, to guard against the possibility of any misconstruction of the correspondence, he begs leave to recapitulate some of the most important positions in regard to which there is an entire coincidence of opinion and a perfect agreement on both sides.

1. That the Protocol is not an addition to the Treaty and cannot so be considered either under the Constitution of Mexico or that of the United States.

2. That it possesses no validity whatever to change or modify the treaty or any one of its provisions.

3. That the Protocol is regarded as a correct interpretation of the treaty, although it can never receive a construction to enlarge or restrict the treaty or any one of its provisions.

These principles being perfectly understood and agreed upon the undersigned will close the discussion on his part,

and assure His Excellency that he considers the matter concluded.

Etc., Etc., etc.,

N. Clifford.

His Excellency,
The Minister of Relations,
Etc., etc., etc.

Department of State,
Washington,
29th July, 1849.

To Nathan Clifford, Esquire,
Etc., etc., etc.

Sir:—

Your despatches numbers 44 and 45 have this day been received. It has been seen with regret from your note to the Mexican Minister of Foreign Affairs of the 13th instant on the subject of the Protocol, that you have assented and admitted that that instrument presents a correct interpretation of the Treaty of Guadalupe Hidalgo. This the President does not and can never acknowledge, and it is deemed advisable to lose no time in apprizing you thereof. His wish and determination is to deal with the Mexican Government in a spirit of perfect fairness and candor. He conceives that it would not comport with this if he were to allow that Government to remain undeceived upon this point. He accordingly directs that as soon as may be practicable after you shall have received this despatch, you will address a note to the Minister for Foreign Affairs, in which you will state that while the President entirely concurs in the doctrines set forth in the paragraphs numbered 1 and 2, in your note above referred to he wholly dissents from that part of the paragraph numbered 3 in the same note which states "That the Protocol is regarded as a correct interpretation of the Treaty."

Considering also the importance of this matter and apprehending that if you were to remain accredited in your present character to the Mexican Government, that Government

might have reason to distrust the decided nature of the President's objections to the principle admitted in the paragraph adverted to, he has deemed it advisable to recall you. A sealed letter to the President of the Mexican Republic announcing this event, is accordingly herewith transmitted, and also an open copy of the same which last you will communicate to the Minister for Foreign Affairs with a note requesting him to appoint a day for you to present the original to the President. On taking leave of that functionary, you will address to him a few oral remarks expressive of the President's desire to maintain unimpaired the existing pacific and friendly relations between the two countries. Prior to leaving the City of Mexico, you will present Mr. Walsh to the Minister of Relations as Chargé d'Affaires *ad interim*, and will commit to his custody the archives of the Legation.

I am, Sir, very respectfully,

Your obedient Servant,

JOHN M. CLAYTON.

LEGATION OF THE UNITED STATES,
CITY OF MEXICO,
Sept. 3, 1849.

The undersigned, etc., has the honor to inform His Excellency, etc., that he has received a despatch from the city of Washington communicating the information that a certain part of the third proposition in his note of the 13th July last has been disapproved by his Government, and that the President does not and never can acknowledge its correctness, and instructing him to address this note to His Excellency and say that "while the President entirely concurs in the doctrines set forth in the paragraphs numbered 1 and 2, he wholly dissents from that part of the paragraph No. 3 in the same note which states that the Protocol is regarded as a correct interpretation of the treaty." It is also the duty of the undersigned to inform His Excellency that the President apprehending that were

the undersigned to remain accredited in his present character the Mexican Government might have reason to distrust the decided nature of the President's objection to the principle admitted in the paragraph adverted to, has deemed it advisable to recall him. . . . It only remains for the undersigned to request His Excellency to appoint a day when he may present letter to the President and take his leave of the Mexican Government.

Etc., etc., etc.

N. Clifford

Legation of the United States,
City of Mexico,
September 6, 1849.

Hon. John M. Clayton,
Secretary of State.

Sir:—

. . . Immediately on the receipt of your despatch No. 24, announcing my recall, I set about making the necessary preparations to return to the United States. My arrangements are so nearly completed that I venture to assure you that I shall leave this city on the 12th instant with the intention of taking passage in the British packet which will sail from Vera Cruz on the 16th, and hope to reach Washington the last of the present month. Having found no opportunity to settle my account, I shall embrace an early moment after my arrival to call at the Department for that purpose. My final note was addressed to the Minister of Relations on the 3d instant, as you will perceive from its date. The replies of Mr. Lacunza bear date the following day. One has reference to the Protocol and the other to the time and place appointed for the audience of leave. Agreeably to the arrangement pointed out in the last named note, I took leave of the President today in the presence of the cabinet

and a large number of the civil and military officers of the country. Enclosed you will find copies of the correspondence referred to, together with a copy of the remarks which I addressed to the President on the occasion and a copy of his reply. Immediately previous to the time assigned for the audience of leave, I presented Mr. Walsh to the Minister of Foreign Affairs as Chargé d'Affaires *ad interim*, and have since committed the archives of the Legation to his custody.

A few words of explanation in regard to the Protocol question and I have done. It is scarcely possible that any difficulty can arise in regard to it, considering the anxiety of the Mexican Government to arrange it and its readiness to acquiesce in almost any mode of adjustment that will be satisfactory to the Government of the United States. Waiving all discussion at this time of the correspondence that has been communicated and my position in regard to it, I beg leave to repeat what in substance may be found in one of my previous despatches, that the question has never attracted much attention in this country, nor is it now regarded as one possessing much importance. It being conceded that the Protocol is not an addition to the treaty, that it possesses no validity whatever to change or modify any one of the stipulations between the two countries, and that the Courts of the United States are not bound by the explanations which it contains, beyond their intrinsic truth, it does not seem to me there is much left for dispute. Should it ever become necessary to discuss the treaty and ascertain its true meaning on the three points embraced in the Protocol it will be found there is no substantial difference of opinion whatever between the Government of Mexico as at present organized, and that of the United States. All will agree, I suppose, that the treaty, in stipulating for the protection and maintenance of property, gives full confirmation to

complete legal titles to lands. In giving this protection to property the treaty does no more than affirm a principle often recognized by the Supreme Court, that the United States, as a just nation, would support such titles although there was no treaty stipulation to that effect. The Protocol, in the sense in which the present Government of Mexico understands it, does no more on this point than confirm complete legal titles and it is all that is claimed by Mr. Lacunza when he asserts that the Protocol is a correct interpretation of the treaty. It has never been pretended by Mexico, nor does her government now claim that the Protocol gives any confirmation whatever to incomplete titles. If the impression is entertained that Mexico seeks to enlarge the treaty through the Protocol so as to give any validity to impresario grants in Texas or elsewhere, it is my duty to assure you it is a mistake. No such pretension has ever been set up by this government, and I am assured, that it never will be. On one occasion I put the question distinctly to Mr. Lacunza—does the Mexican Government contend that the Protocol gives any confirmation to incomplete titles? To this he answered with much emphasis—"No, Sir."—The treaty provides that Mexicans who remain in the territories ceded shall be "secured in the free exercise of their religion without restriction." Mexico contends for nothing more, nor has it ever been pretended by anyone of her cabinet officers that the Protocol is more comprehensive on this point than the provision of the treaty already cited. Should our government think it necessary to require a more specific disclaimer on these two points, no doubt is entertained that it may be had without the least difficulty, or hesitation. The other point being one of no difficulty, I forbear to submit any remarks in regard to it. The following is the list of the correspondence appertaining to this question—1st, Mr. Buchanan's despatch to me No. 14,

dated 17 February, 1849—2d, My despatch No. 40, March 17, 1849—3d, Mr. Buchanan to me, No. 15, March 2, 1849—4th, My note dated April 30, 1849—5th, Notes from Mr. Lacunza to me, May 13, 1849—May 14, July 13 and September 4, 1849—6th, My despatch to you, July 14, 1849, and my note to Mr. Lacunza July 13, 1849—7th, Your despatch to me July 28, 1849.

Copies of additional correspondence between the Consuls at Tampico and Matamoras respectively, and myself, are herewith enclosed.

With great respect,
Your obedient Servant,
N. CLIFFORD.

In the early fall of 1849 Mr. Clifford was again in the United States. His successor as minister to Mexico had been appointed and another and most interesting experience in his life had been brought to a close.

CHAPTER IX

1849-1858

On his return from Mexico, Mr. Clifford was a national character. His successful administration of the difficult mission added to his position in President Polk's cabinet had given him a prestige which he never before had possessed. Yet his financial status was such that he must at once find means of gaining a livelihood, and for the next three years at least, he could not hope for any presidential appointment.

He therefore immediately turned his attention to re-establishing himself in the practice of his profession. He felt that Newfield no longer offered the opportunities which he desired. Accordingly he selected Portland as the site of his future residence. He came to this city in 1849, and at first lived in the southern half of the double brick house which is now occupied by the Cumberland Club. Mr. John Appleton, whom we have known as chief clerk in the Navy Department under Polk, and who was soon to be elected to Congress,[1] and had long been a friend of Mr. Clifford, urged him strongly to make Portland his home.

Portland October 31st 1849

My Dear Sir:

Altho' you owe me two long letters, yet, as you have come back home, I feel that I ought to congratulate you upon your safe arrival. I should have done so before, had I not expected to see you last week in Portland. I hope you mean to be here

[1] *Biographical Congressional Directory*, page 364.

soon. I shall be right glad to see you, not only to talk a little over the past, but to have the benefit of a conference with you concerning the future. You have not abandoned, I trust, your intention of making this city your home. It is a pleasant location, I need not assure you, and though its business is not so great as it ought to be, its progressing improvements promise to do it much good. Its political advantages may not be less, in the long run, than those offered by other places— But all this it is better to talk about. I am once more domiciled here, and either at my house or office I will be happy to see you always.

I hope you find your family entirely well, and that Mrs. Clifford has returned, without detriment, from her journey to the land of the Aztecs.

With my regards to her and my sincere congratulations to yourself upon your safe return.

I am
very truly
yrs
JOHN APPLETON

HON. NATHAN CLIFFORD

The next ten years were to be some of the most momentous in the history of the country. The result of the Mexican War had been the acquisition of a vast tract of territory through which the southern statesmen hoped to re-acquire the influence in Congress they had lost by reason of the increase in the number and population of the northern states. Mr. Clifford had become too much of a power in Democratic circles and his love of politics was too great to expect that in such times he would absent himself from the arena. Therefore we are not surprised to find him in the thick of the fighting.

As early as 1846, David Wilmot,[1] a Democratic repre-

[1] See Rhodes, *History of United States from the Compromise of 1850*, vol. i., pages 89–90.

sentative from Pennsylvania, had proposed, as an amendment to the bill providing for an appropriation of two million dollars to aid in settling our difficulties with Mexico, a stipulation that slavery should be prohibited forever in all territory to be acquired by the war. At the next session of Congress, the President asked for three million dollars to be employed in negotiating the treaty. An attempt was made to couple this grant with the same condition as that tried in the year previous. Both efforts failed, however, though the "Wilmot Proviso," as it was called, from that time on played a most important part in the history of the endeavors at settlement of the slavery question.

Almost every northern state,[1] through her legislature, urged its adoption, while the South protested against it. Bluster was loud. Threats of disunion[2] were frequent. In considering this matter it should be borne in mind that under Mexican rule slavery did not exist in these territories. By a well recognized maxim of International Law, the statutes of a subdued country obtain until changed by the conquerer. Yet so firm was the determination of southern statesmen to have these regions given over to the slave aristocracy that Calhoun[3] invented the ingenious theory that the moment the treaty with Mexico was ratified the Constitution of the United States, allowing slavery, changed the previously existing status just as if a new enactment had been passed by Congress.

It is fair to say that the Wilmot Proviso was one of those ill advised, but well meaning, attempts at the curtailment of slavery which did much harm by keeping the country stirred up unnecessarily. There was no need of restricting slavery in territories where it did not and could not exist,

[1] Wilson, *History of the American People*, vol. iv., page 137.
[2] McMaster, vol. viii., pages 1–9.
[3] Rhodes, vol. i., page 94.

and any needless opportunity for the expression of southern threats was to be avoided.[1]

After the ratification of the treaty with Mexico, the government of the recently acquired territories was again taken up in Congress. The matter was complicated by the fact of the discovery of gold in California and the subsequent rush of immigration to this part of the country. The new settlers acted promptly, erected a complete government, and applied to Congress for recognition as a free state. President Taylor[2] advised this course as to California at once, and also the postponement of action in regard to New Mexico. It is said that he would have signed a bill for the admission of the territories with the Wilmot Proviso attached.[3]

Congress met December 3, 1849. The Democrats had 112 members in the House, the Whigs 105, and the Free-Soilers 13. Had the latter been willing to vote for Winthrop, the Whig candidate for speaker, they could have insured the election of a person much more to their taste than Howell Cobb of Georgia, the Democratic nominee, a man devoted to the slavery interests, who was finally chosen after a long contest.[4]

The Democratic Party was at loggerheads. The Calhoun faction represented one extreme, their contention being that Congress could not exclude slavery from the territories. At the other pole stood the supporters of the Wilmot Proviso. Associated with this latter group were those who doubted the necessity of such legislation, believing that slavery was already prohibited by Mexican law, yet recognizing the right to Congress to prevent its introduction.

The mean ground was held by those who questioned

[1] Benton's *Thirty Years' View*, vol. ii., page 695.
[2] Wilson, *History of the American People*, vol. iv., pages 135–6.
[3] Rhodes. [4] *Ibid.*, vol. i., page 117.

both the necessity and constitutionality of the Wilmot Proviso. They believed that the function of Congress was to erect proper governments in the new territories, leaving the question of negro freedom or servitude to be determined by the inhabitants. This latter theory soon came to be known as that of "Squatter Sovereignty."[1]

In the State of Maine, the party had divided. Two groups had sprung up; that which supported the administration and its policies was represented by such men as James W. Bradbury, Hugh J. Anderson, John Appleton, and Nathan Clifford; of the other faction, which took more advanced ground against slavery, Hannibal Hamlin of Hampden was one of the leaders. Both sides were striving for the same goal, the preservation of the Union, but they differed as to the means to be employed. The latter placed its hatred of slavery ahead of allegiance to party. Their loathing of the institution was so great and their conviction of its horrors so strong that they were willing eventually to risk a great civil war to enforce their ideas of right. These men generally supported the Wilmot Proviso. The former faction believed that the only way to keep the country together was to compromise with the South, hoping by this means to avoid an open rupture and trust to the future to bring saner ideas and an ultimate *modus vivendi*. They were called the pro-slavery Democrats. In the sense of being in favor of slavery, the term was a misnomer. They were divided among those who denied the constitutionality of the Wilmot Proviso and those who considered it constitutional but unnecessary. They also insisted upon adhering to the national party nominations, rather than breaking away to form a new group, which they considered sectional and therefore dangerous.

The division among Maine Democrats had begun to

[1] Johnson's *Life of Stephen A. Douglas*, pages 127–129.

show itself as early as 1848, while Mr. Clifford was in Polk's cabinet. In 1847 Senator Fairfield died, thus leaving a vacancy in his office for the balance of the term. Mr. Clifford was a candidate for the nomination[1] from the administration group; Mr. Hamlin from the other wing. Mr. Hamlin won and was again successful against Mr. Clifford in 1850[2] at the expiration of the period for which Senator Fairfield had been elected. These defeats were disappointing to Mr. Clifford, who never was able to get over his desire to sit in the United States Senate.

The repeated references to the Protocol in the following letters should be explained. It will be remembered that this act of the commissioners was immediately taken up by the Whig administration as a cause for recalling Mr. Clifford. President Polk in his diary under date of February 10, 1849, ascribes the agitation in the Senate to Senators Benton and Clayton, giving as a reason for Benton's hostility, the government's attitude in the trial of Colonel Frémont, Benton's son-in-law.

On February 9, 1849, President Polk sent to the House a message which so clearly disposes of the question that it has been deemed wise to quote at length therefrom[3]:

He emphasizes the fact that the task of the commissioners was to "consummate" the treaty, which was signed at Guadalupe Hidalgo and was ratified by the Senate with amendments; that they were expressly cautioned not to negotiate any new agreement or to change in any particular the one already made, although it would probably become necessary to explain to the Mexican Minister for Foreign Affairs the reasons which had influenced the Senate in adopting these several amendments to the treaty; that they were warned to do this by personal

[1] Hatch, *History of Maine*, vol. ii., page 336.
[2] C. E. Hamlin, *Life and Times of Hannibal Hamlin*, page 241.
[3] *Messages and Papers of the Presidents*, vol. iv., page 679.

conferences and to avoid diplomatic notes as much as possible.

He states that the Secretary of State expounded to the Mexican Government by letter the meaning of the amendments made by the United States, and that these were the only explanations before the Mexican Congress at the time of the ratification of the treaty. Indeed, the United States commissioners did not present their credentials until after that event. Therefore the agreement between the two governments became binding before the commissioners had any dealings with the Mexican authorities.

He goes on to say that, had the Protocol amended the treaty, it would have been a nullity. It was never considered as a part of that instrument by the commissioners, the administration or the Mexican Government. He emphasizes the fact, however, that the Protocol is in exact accordance with the terms of the treaty as amended by the Senate, and shows by quotations from both documents their complete correspondence.

He calls attention to the fact that the changes insisted upon by the United States Senate were in Articles 9, 10 and 12. The first stipulated "for the incorporation of the Mexican inhabitants of the ceded territories and their admission into the union. . . . It provided also that in the meantime they should be maintained in the enjoyment of their liberty, their property and their civil rights now vested in them according to Mexican laws. . . . It then proceeded to guarantee that ecclesiastics and religious corporations should be protected in the discharge of the offices of their ministry and the enjoyment of their property . . . and that there should be free communication between the Catholics of the ceded territories and their ecclesiastical authorities," even though the latter should reside within the limits of the Mexican Republic. The President then shows that all these rights are included in

the new Article Nine, and that the Protocol merely states this fact.

The message then takes up Article Ten and points out that this section not only protected legitimate titles but it also attempted to resuscitate grants which had become a nullity; that it was left out by the Senate; and that the Protocol merely states that the striking out of this part was not intended to destroy valid titles to land which were in full force and which are protected by Article Eight of the treaty, and would have been guaranteed, without any specific mention, by the laws and Constitution of the United States.

In his final paragraphs the President speaks of the last change made by the Senate. This refers to the payment of the balance, $12,000,000.00. Originally this was to be turned over to Mexico in the form of government stock, a provision to which the United States would not agree. The Protocol simply states that our government did not mean to restrict the right of Mexico to transfer this indebtedness. He shows that such a right is but the common law privilege of every creditor and was never meant to be curtailed by the treaty.

President Polk was very much pleased with this message and refers to it several times in his diary as being unanswerable. After the preceding explanations, the following letters will be better understood:

MEADVILLE, PENNA, 17 October 1849.

MY DEAR SIR:

I have been here for some days on a visit to my sister Mrs. Yates who I regret to say is in wretched health. I should have written to you after hearing of your arrival in Washington, had I been certain that my letter would have found you there.

Most cordially do I congratulate you upon your return to your native land after having so ably, honorably & successfully

discharged the duties of your important mission. With your capacity & tact you must hereafter occupy a high & important position in the Country; & you have no friend who will be more gratified by your elevation than myself. During your absence I observed your course with great solicitude & took care to have you defended in the public press whenever occasion required. The article in the *Union* in reply to that of the *National Intelligencer* on the subject of the protocol appears to have silenced the Whig battery.

It would seem that in order to restore the vigor & strength of the Democratic party it is necessary that they should be occasionally well flogged. The defeat of General Cass was to be sure a severe remedy; but it has proved effectual. General Taylor's administration will destroy the prestige in favor of mere military men; and we shall not soon hereafter witness the election of any man to the Presidency who possesses no qualifications for the office & no experience to guide him in the discharge of its important duties. He is, I believe, frank, honest & desperately brave; but from the necessity of his position he was compelled to devolve his duties upon his Cabinet.

At the late election, this State has shewn herself to be, what she essentially is, Democratic by a large majority; but the time has passed when a Democratic nomination is equivalent to an election. The nominating Body must consult the will & the wishes of the people in their selection;—otherwise, under ordinary circumstances, defeat will be the consequence.

I confess that for the first time in my life I feel somewhat alarmed for the union. Should the Wilmot proviso pass & be approved by the President; we shall see such a movement, deliberate, & determined on the part of the South as I never expected to witness. They say that the constant agitation of the slave question at the North reaches the Slaves & excites their wild passions.—that self preservation is the first law of nature & that the question has now become social rather than political. That if the security of their wives & children & all they hold most dear is endangered by living with us they must separate from us. All they desire is to be let alone.

With my cordial congratulations & kindest respects for Mrs. Clifford, I remain truly your friend.

JAMES BUCHANAN.

HON: NATHAN CLIFFORD.

WHEATLAND, near LANCASTER, PENNA Dec 24th '49.

MY DEAR SIR:

Shortly after your arrival in this country, I addressed you a letter of congratulation; but not knowing your Post Office I directed it to the Hon. Nathan Clifford, Maine. I presume it was never received or it would have been answered. I remember with peculiar pleasure our intimate association in the Cabinet of Mr. Polk & it is my sincere desire to keep the chain of friendship bright between us as long as we may live.—I shall direct this letter to Portland to the care of our friend Woodbury, hoping that it may have a better fate than its predecessor.

I learn from an authority on which I rely that Colonel Benton[1] intends again to bring the Protocol before the Senate & we ought to be prepared to meet him. I should, therefore, be pleased to learn the final action upon that subject in Mexico, with any observations on it you may think proper to make. The Colonel never yields & his signal discomfiture in the Senate last winter will only make him the more determined.

Well Cobb has been elected Speaker & I rejoice at it. He is a sound Democrat, an able & excellent man & well qualified to perform the duties of the chair. The Session will perhaps be more important than any which has ever been held since the adoption of the Federal Constitution. The crisis on the slavery question is rapidly approaching & the South at last are nearly unanimous. This arises from the fact that the agitation of the question in the North which has been incessant for the last fifteen years has affected the slaves of the South & rendered the domestic fire side insecure. Self preservation is the first law of nature, & unless this agitation can be arrested the Union is in danger. I am not alarmed at trifles; but such

[1] Thomas Hart Benton, Senator from Missouri, author of *Thirty Years' View.*

is my opinion. Before the close of the Session the people may have to balance the Wilmot Proviso (which never was any thing but a humbug except for the purpose of agitation) & the abolition of Slavery in the District of Columbia against all the innumerable blessings & benefits of our glorious Union.

I should dearly like to see Mrs. Clifford & yourself & hear all the wonders of Mexico. I expected much from you as a minister but you have exceeded my expectations. I believe with General Herrera that if you had been our minister for two years before the war, this would have prevented hostilities. I might say the same of Slidell. Shannon was a poor apology for a minister.

With my kindest regards for Mrs. Clifford, I remain

Sincerely & respectfully

Your friend

JAMES BUCHANAN

HON: NATHAN CLIFFORD

WHEATLAND 8 January 1850

MY DEAR SIR:

I have received your favor of the 28th ultimo & am astonished at the conduct of Mr. Clayton which it portrays. I have but little doubt that he & Col. Benton are on confidential terms; and if so, I can scarcely believe, that the latter will again attack the protocol & thus produce the necessity of calling for & publishing the whole correspondence. It is possible that the correspondence between Mr. Clayton & Mr. Rosa sent to Congress by the President may render this necessary. Of this we can judge when it is published. I have deemed it best to make Colonel King[1] acquainted with all the facts.

As no one can tell *a priori* what course Col. Benton may pursue, I would advise you to communicate fully upon this subject with some able & discreet friend in Washington. *There may be a disposition in a certain quarter there to make poor Sevier & yourself mainly responsible for the protocol & to excuse the administration of Mr. Polk*[2] *for making the best of it after it*

[1] William R. King of Alabama, Vice-President in Pierce's administration.

[2] Polk & Sevier were both dead.

was communicated to the Department. For my own part I would despise any such course as far as I am concerned & shall defend both yourself & Col: Sevier *a'outrance* should this become necessary. Still I am clearly of opinion that you should have some person at Washington able & willing to act promptly should an assault be made.

Please to remember me kindly to Mr. Appleton & believe me always to be sincerely & respectfully

Your friend

JAMES BUCHANAN

HON: NATHAN CLIFFORD.

WHEATLAND, near LANCASTER, 10 Aug: 1850.

MY DEAR SIR:

Since the receipt of your letter, I have been absent at the Bedford Springs. This is the reason why it has not been sooner acknowledged.

You have been quite too modest. Other ministers not half so meritorious as yourself have taken care to have their correspondence published, whilst you have remained in the background. When the correspondence relating to the late Mexican Treaty shall be called for, you ought to procure some friend in the Senate to ask for yours, as well as Mr. Letchers, on the same subject. If you would write to Col. King, I know he would be happy to see that justice should be done to you. I presume, also, that Mr. Bradbury is your friend. Your correspondence relating to the protocol ought also to be published, though the present moment may not be the most propitious time. It is due to yourself, as well as to the late administration, that your light should not be hid under a bushel.

I have not seen either the Buffalo *Republic* or the Maine *Democrat:* & should not have believed any statement asserting that you were friendly to the Wilmot Proviso.

It would require a prophet divinely inspired to predict what will be the condition of parties in 1852. It is very certain that at the present moment no National Democratic Convention

could be held. The Democracy of Maine & Mississippi are as wide asunder as the poles on the Slavery question. From present appearances, the next Presidential election will be "a scrub race."

With my kind regards for Mrs. Clifford & Mr. Appleton, I remain your friend very respectfully

JAMES BUCHANAN

HON. NATHAN CLIFFORD.

P.S. How are you succeeding professionally?

At the moment when a peaceful settlement of the slavery difficulties seemed impossible, Henry Clay came forward in the Senate, his body enfeebled by age and illness, and with great eloquence pleaded for a solution in the nature of a give and take.[1] After long debate, a series of measures were passed known as the Compromise of 1850. It was enacted in the closing month of the year that California be admitted to the Union as a free state, with the constitution she herself had formed; that the rest of the Mexican cession be left open to slavery, should events and the movement of population out of the south establish it there; that the trade in negroes be abolished in the District of Columbia. Also a more effective fugitive slave law was passed.[2]

It is pathetic to look back upon the nearly universal applause with which the passage of these measures was greeted. The country was full of high hope that the vexed question had been permanently settled. The subsequent utter failure of these enactments to accomplish the result expected of them leaves one the conviction that the only possible conclusion of the bitter controversy was the final one of a resort to arms. Yet in 1852 so great was the faith in the success of the new laws that both the Whig

[1] Rhodes, *Hist. of the U. S. from the Compromise of 1850*, vol. i., page 123.
[2] Wilson, vol. iv., page 140.

and Democratic national platforms ratified them with the idea of obtaining popular support for their tickets.[1]

The Democrats entered the field almost certain of winning. Therefore the contest for the nomination was very sharp. The leaders in the Democratic convention were Cass, Buchanan, Marcy and Douglas.[2] On the thirty-fifth ballot the name of Franklin Pierce of New Hampshire appeared for the first time, Virginia casting her fifteen votes for him. From that time on, he gained steadily until on the forty-ninth there was a stampede to him, resulting in 282 out of 288 votes.[3] William R. King of Alabama was chosen for Vice-President. General Scott received the Whig nomination.

Mr. Clifford had been in favor of Buchanan; still he was too much imbued with the discipline of party not to support loyally its standard and choice wherever they might lead, provided the Democratic principles and honor were not transgressed. The following letters are indicative of the influence of Mr. Clifford among the leaders of the Democracy, and show not only that he had been a delegate to the National Convention in Baltimore, but that he also had been influential in throwing the Buchanan votes to Pierce when it became evident that the former could not receive the nomination.

In order to insure a better understanding of the correspondence, mention should be made of the wide spread anti-Catholic feeling existing at this period in the eastern states. This sentiment had given rise to the foundation of the Know Nothing order and kindred organizations. The purpose of the societies was to inculcate a sentiment of Americanism, and their efforts were largely directed against what to them seemed to be the growing danger of Roman Catholic power. During the campaign, the

[1] Rhodes, vol. i., pages 249 and 254.
[2] *Ibid.*, page 247; *Life of Douglas*, page 196.
[3] Rhodes, vol. i., page 248.

attempt was made by the Whigs to prove that Pierce had favored the retention[1] of the anti-Catholic religious test in the constitution of New Hampshire.

(To Mr. Clifford)

Towanda, Bradford Co.
Penna. June 22nd 1852.

My Dear Sir:

I take great pleasure in sending you herewith a proof-sheet copy of a letter written by our friend the Hon. James Buchanan—in pursuance of the understanding, when I had the pleasure of seeing you at "Wheatland."[2]

I also enclose a copy of a letter which I have this day mailed addressed to Gen. Pierce.— It is written, as the Vermont soldier fought—"on my own hook"; but for obvious reasons, I wished *you* to know how, and what I had written. Now, in view of possible contingencies, would it not be well for you soon to pay an accidental or direct visit to Gen. Pierce.— He would doubtless refer to the suggestion in my letter; and the whole subject of your coming to Pennsylvania, and instant communication with Judge Campbell might be arranged. Gen. Pierce might possibly hesitate to *write* himself, either to you, or to Judge Campbell;—but would probably consult you in person, *if you saw him.*—

The most daring and desperate efforts will be made by Scott's friends—Stevens, Gov. Johnston and others, to carry this state; and not a moment, or an effort on our side, should be lost, to meet their machinations.— Pray let me hear from you after you have seen Gen. Pierce; or even if you should not see him, I should be gratified by receiving a brief line from you. —I take it for granted, the letters of Mr. B. will be published at once, with a suitable notice in your democratic papers.

I am, dear sir, hastily and very truly, your friend & Obedt.—

C. L. Ward

[1] McMaster, *History of the People of the United States*, vol. viii., pages 76–88. Hatch, *Hist. of Maine*, vol. ii., page 357.

[2] This letter is published in the Portland *Argus*, June 28, 1852, and makes an appeal for the support of Pierce and King.

Towanda, Bradford County
Penna. June 21st 1852.

Hon. Franklin Pierce
Concord, N. H.

Dear Sir:

I have the honor and pleasure to send you herewith, a proof sheet copy of a letter recently written by the Hon. James Buchanan to a number of citizens of this county, in reply to one of their own, addressed to him a few days prior to the meeting of the late National Democratic Convention at Baltimore. This letter is like every thing emanating from its distinguished author—frank, manly, decided and able; and will have a most powerful influence in our state in rousing our Democracy from the momentary apathy into which they had fallen, from disappointed state-pride and strong personal attachment to our own worthy fellow-citizen.[1]

Although I can scarcely claim the honor of a personal acquaintance, I feel sure from your established character, you will pardon to the spirit of candor and frankness, the liberty I have taken in addressing you this hasty note; and also the further liberty of pointing out one or two measures which, if pursued, may essentially promote the success of the democractic party in Pennsylvania, in the coming contest. By the advice of our friend, Mr. Buchanan, and as coming from him, it was my purpose in returning to my home by way of New York City from Baltimore (where I had been a delegate) to have paid you a brief flying visit, in order personally to assure you of the cordial support of both him and his friends in Pennsylvania; and also to speak fully and frankly, (as I think I might do advisedly) of the chances and prospects of the Democratic ticket in our state. But I met at New York your friend Mr. Atherton, to whose zeal and ability you owe much, if you value the proud distinction conferred by the late Convention.

He informed me you were not at Concord; and I gave up the visit, which, under the circumstances, might not have been either useless or unwelcome. I should fear to pay that

[1] *Argus*, June 28, 1852.

visit now, when your attention must be occupied by numerous calls and by the cares of an exacting and extended correspondence.

The main difficulty likely to arise in Pennsylvania is from a defection of the Catholic voters, of which there are some 25,000 in the state. Mr. Buchanan, from a variety of circumstances, has a strong hold upon the attachment of our naturalized citizens, and could have commanded an united vote. But there is some reason to fear that Gen. Scott may possibly prove a formidable rival, as matters have resulted.

This will not be, as many without sufficient warrant have assumed, because New Hampshire has an offensive religious test in her State Constitution; but because Mr. Seward[1] and Gen Scott. his protégé and nominee, have more recently pandered to a soulless degree for popularity and Catholic prejudices and superstitions. It is also to be feared too, that this already apparent inclination toward Scott, may have been accelerated by an occurrence in our own state elections last fall.— Judge Campbell of Philadelphia, the present Attorney General of the state, was nominated with four others on the Democratic ticket, for Judges of the Supreme Court. He is a man of unspotted reputation, and undoubted ability; but in his religious preferences, attached to the Catholic Church. *He was the only man on the Democratic ticket who failed to be elected!* Religious bigotry was openly appealed to by a clique who professed to support the claims of Gen. Cass; and who being hostile to Mr. Buchanan struck at the only one of his prominent friends within their reach. Mr. Buchanan defended him; but Mr. B. in his turn has failed in the National Convention; and the blandishment of the Scott and Seward school of politicians, fall now upon open ears, and ready minds. Judge Campbell can do more than any other man in the state, to put down and defeat the efforts making to produce defection among his Catholic friends.

The Hon. Nathan Clifford, having been in the Cabinet with him, was naturally a warm and active friend of Mr. Buchanan.

[1] William H. Seward, Sec. of State under Lincoln. *Biographical Congressional Directory*, page 791.

As such, he became known personally to a large number of the Pennsylvania delegates and other influential Pennsylvanians at Baltimore—Comprising our strongest men, and scattered throughout the different districts of the state. He is also decidedly your friend; and never spoke of you but with the warmest expressions of respect. When the contest at the very last moment, seemed to bring your name prominently forward with that of Gov. Marcy—his voice and influence with the friends of Mr. Buchanan, were unequivocally for you.

On his way home he spent a night with Mr. Buchanan at Lancaster. I met him there; and, as I have before stated, formed the determination *upon advice*, to visit you at once, to put you in possession of some latent matters likely to affect the present canvass.

Mr. Clifford, also had, at my desire, an interview at Philadelphia with Judge Campbell. I should have continued on with him, to Concord except from the information received from Mr. Atherton of your absence from home.— It is desirable to inspirit the active and leading democrats of the state; it is also desirable to prevent any defection in the Catholic vote. Now, my suggestion is this: that Mr. Clifford should, some weeks hence, come into Pennsylvania, and go with Judge Campbell quietly over the state-holding few, if any *public* meetings, but seeing the prominent democrats, and urging them to the contest. The positively certain beneficial results of this step, I need not enlarge upon. Nor need I to press the importance of carrying Pennsylvania; for no Presidential candidate *of either party*, ever succeeded without the electoral vote of the old "Keystone Commonwealth." In all candor, yet with the best hope, I deem her *at this time*, a doubtful state; especially in view of the sectarian efforts of the Whigs. I name Mr. Clifford, simply because I think, from his eminent position in the party, his attractive manners and address, and above all, his late sympathies and general acquaintance with our leading democrats—he is peculiarly suited to our meridian and our men, in view of the object to be accomplished. I name him also, because I think he would cheerfully undertake this mission, if he supposed it would promote your success, and

the triumph of the Democratic party. I know Judge Campbell intimately; and I almost feel authorized to speak for him upon this subject, *ex cathedra*.

My residence is at Towanda, Bradford County, a part of Mr. Wilmot's late district, which district I had the honor (so to speak) to represent in the late Convention at Baltimore. Here, Mr. Cass lost some 3000 democratic votes in 1848. I do not think the present ticket will lose 300, unless a portion of our 1500 Catholic voters are seduced from us. I feel persuaded, in this district alone, we can wipe off one third of the whole Taylor majority in the state, in the late Presidential canvass. I repeat my belief is, we shall carry the state, but the prospect is not so certain, that any reasonable precaution should be neglected.—

I have thus, my dear sir, written you a long, and a very frank letter;—coming as it does from one comparatively a stranger. It is both longer and more frank than it would have been, if circumstances, as well as my own deliberate choice, did not exclude me from cherishing even the slightest political aspiration affecting myself personally; and thus leave my motives beyond all suspicion of selfishness. Your friend Mr. Atherton knows me slightly: with Mr. Clifford, I am much better acquainted. Both I presume, will testify that my suggestions are not entirely unworthy of consideration. For myself—I will only add, with my best wishes for your success, that I have the honor to remain

faithfully, your friend
and obedt Servt.

C. L. Ward.

Philadelphia, 23 June, 1852.

Nathan Clifford, Esquire,
Portland, Me.

My Dear Sir:

A few days since, I wrote to General Pierce, and suggested to him the policy of saying something favorable of Mr. Bu-

chanan, in his letter of reply to an invitation which we intend to send him, to attend our 4th of July celebration.

Now, my dear sir, he may not think this as important a matter as many of us do here. The truth is, and it is fallow to try to cheat ourselves into a different belief, that we shall lose a great many of the Catholic votes of our State,—particularly now that Scott is the opposing candidate,—unless we can assure them that General Pierce is the friend of Buchanan.

When writing to General Pierce, as you no doubt frequently do, could you not suggest to him that in case he wrote a letter to Pennsylvania, in reply to any 4th of July invitations, it would be well to speak handsomely of Mr. Buchanan in one of them? You could do this without letting him suppose you heard from me upon the subject. Since the Convention, you have yourself been in this State, and may have witnessed some of the feeling exhibited at the result, by portions of our Democracy. The truth is, we shall have great trouble to keep many of our men in the ranks, and an impression is being created, *without foundation, of course*, that there is no friendly feeling on the side of Pierce towards Buchanan. If this is not counteracted, and that speedily, *the State will be lost to us at the coming election.* Now, a kind letter from Pierce in favor of Buchanan, to be read on the 4th would be the very thing to rouse them to their wonted enthusiasm. The whole State would be aroused at once, and we should be able to carry it by an old-fashioned Jackson majority.

I hear that Mr. Buchanan will be in this city to-day. I have not seen him since his defeat but have had several letters from him, in all of which he speaks in the highest terms of our nominees.

The whigs here had a ratification meeting last night. It was a tame affair altogether. The only truly refreshing thing in the whole matter was, that Senator Jones, of Tennessee, in his speech, said, that if the Loco Focos did not drop the title of *General* before Pierce's name, he, *Senator Jones*, would himself "*tear the epaulettes from the shoulders of our candidate, and snatch the military button from off the coat which he disgraced!!!*"

Whew! "what a long tail our cat has got!" I believe he once made a similar threat towards General Jackson, but I never *heard that he carried it into execution!*

I shall long remember, my dear sir, your efficient services at Baltimore, in favor of our great friend, and I shall gratefully cherish them, until a fitting opportunity offers to do something for you in return.

Hoping to hear from you occasionally as the fight progresses in the "Star of the East,"

I am, most truly,
Your friend,
GEORGE HITT.

The victory of Pierce was so great that even the Democrats were astounded. The Whigs carried only five states, and it is interesting to note that Pennsylvania was not one of them. The electoral vote stood 254 against 42. It was the largest majority since the so-called era of good feeling. The reason of this great triumph was undoubtedly the unreserved endorsement by the Democrats of the compromise measures. The country was tired of the slavery agitation. It believed that the question had been settled and ended as a political issue. The party had come into power as the peace maker. It had the support of the business interests of the nation. It seemed to have a great mission to perform, to lead onward and upward to a greater prosperity and a more stable union. How soon were these hopes to be shattered![1]

For the next six years Mr. Clifford was to lead the life of a private citizen. Whether during the administration of President Pierce he aspired to an appointed office, at all events he made one more try for the Senate, being a candidate against William Pitt Fessenden in 1853.[2] He was unsuccessful, but continued to take a leading part in all

[1] Rhodes, vol. i., page 277.
[2] Hatch, *History of Maine*, vol. ii., page 362.

political activities. The trial of Neal Dow belongs to this period and is characteristic of the times.[1]

In 1851[2] the Maine Prohibitory law had been amended, granting extensive powers of search, which the Democrats felt conflicted with private rights. In 1855 Neal Dow, the author of the statute, was mayor of Portland, and had ordered certain liquor for the City Agency, which was stored in the basement of the City Hall. The claim was made that he had violated his own enactment and warrants were sworn out for the seizure of the liquor and for his arrest. As a result of this action, a crowd had collected at the City Hall, and in a short time the place was in the grip of a mob. Lawlessness resulted, the militia was called out and eventually fired on the rioters, wounding several.

A public meeting was called and addressed by Nathan Clifford and F. O. J. Smith. The latter demanded the resignation of the mayor. On the next day the mayor was tried. Mr. Clifford appeared for the prosecution. William Pitt Fessenden defended. The respondent was dismissed on the ground that the city had authorized the purchase.

This period was also signalized by the publishing of *Uncle Tom's Cabin*, the passage of the Kansas-Nebraska Act and the consequent repeal of the Missouri Compromise, and the Dred Scott decision. In order to understand Mr. Clifford's attitude, a brief survey of events is necessary. The country was at peace. Prosperity was visible everywhere. The slavery question seemed to be settled, and the hope of those who had set such store on the Compromise of 1850 seemed in the process of realization. Into this comparative quiet was thrown a bombshell.[3]

[1] Hatch, *History of Maine*, vol. ii., pages 383–385.

[2] *Laws of Maine, 1846*, chapter 205. Also *Laws of Maine, 1848*, chapter 67. *Laws of Maine, 1851*, chapter 211.

[3] Rhodes, vol. i., page 428.

It will be remembered that the Missouri Compromise had prohibited slavery in all the country acquired by the Louisiana purchase north of the parallel of 36°30′, except so much as lay within the State of Missouri. The territory of Nebraska was within that part dedicated to freedom, and included the present states of Kansas, Nebraska, the Dakotas, Montana, a portion of Colorado, and Wyoming.[1]

Stephen A. Douglas of Illinois was the chairman of the Senate committee on territories. In 1853, a bill was introduced into the Senate for the organization of the Territory of Nebraska, making no mention of the question of slavery, and was referred in the natural course to the committee of which Douglas was chairman. On January 4, 1854, he made a report which questioned the validity of the Missouri Act in view of the subsequent passage of the Compromise Measures of 1850, and providing that Nebraska or any portion thereof when admitted as a state "shall be received into the Union with or without slavery," as its constitution should prescribe at the time. Such a measure was in direct violation of the law of 1820, admitting Missouri, which had been looked upon since that date as having the force of an article of the Constitution.[2]

On January 23d, he offered a substitute for his preceding bill. It stated that the restriction in the act of 1820 was superseded by the principles of that of 1850, and divided the territory in two parts, calling the northern portion Nebraska and the southern Kansas.[3]

The answer to the proceedings of Douglas was the address of "Independent Democrats in Congress to the People of the United States," written largely by Chase. It called the Nebraska act a "gross violation of a sacred pledge" and goes on to say in a postscript written after the

[1] Rhodes, vol. i., page 426.
[2] *Ibid.*, pages 425–429. [3] *Ibid.*, page 439.

introduction of the substitute of January 23d, that no person in 1850 pretended that the act of that year would repeal the Missouri Compromise.[1]

It is difficult to understand the contention of those who insisted upon the inconsistency of the two enactments. That of 1850 was said to be based on the view that the inhabitants of the different territories could determine whether their states should be slave or free, yet there was no such stipulation in the different bills, and no person at the time of their passage had any idea of them other than that they were a settlement of the difficulties then disturbing the country. The theory of "squatter sovereignty" was inconsistent with legislation regarding slavery for territories, whether such laws be in favor of or against the custom. Still there was nothing in the Compromise of 1850 to show that this idea was intended to be carried to the extent of establishing a precedent for future legislation, and certainly no intimation is made of an intention to repeal existing laws. However, the Kansas-Nebraska Act was passed with slight verbal changes, made for the purpose of satisfying some Northern Democrats. As a settlement, it was a nullity. No sooner had it become a law than the question was raised as to when the people of the territories were to "regulate their domestic institutions," the southern view being that such determination was to be made at the time of the admission as a state, thus allowing slaveholders a chance to move into the territory, while the northern idea was that such action should be taken by the first settlers.

This book is not a life of Douglas, and therefore cannot go too fully into his motives and purposes in the Kansas-Nebraska episode. One cannot fail to feel, however, that he was aiming at the Presidency, and used this means to make himself secure with the South. Clifford and

[1] Rhodes, vol. i., page 490.

Douglas were not far apart in their original beliefs as to slavery. They both belonged to the class of Democrats who supported the idea of "Squatter" or "Popular Sovereignty." The theory carried to its conclusion, and if treated as an underlying principle of the Constitution, undoubtedly led one to the ground from which the Missouri Compromise seemed in conflict with that instrument. On the other hand, if considered merely as a scheme by which the slavery question was to be handled in the future, it need not be dignified by implied incorporation in the document, and could serve as a useful working basis so long as it was not in conflict with the principles thereof.

This latter belief was, in truth, exactly what the originators of the scheme meant it to be. There was no idea at the time of the passage of the Compromise Measures of 1850 that they established any constitutional theory which should have the force of an implied power. It was not until Douglas came out with his astounding scheme for the repeal of the Missouri Compromise, that such an idea began to have circulation.

The theory did not capture a large part of the Northern Democrats. Clifford was opposed to Douglas. The mere fact that the latter was disrupting the party when all difficulties seemed removed and a period of great prosperity and plain sailing under a united banner seemed assured for it, was enough in Mr. Clifford's eyes to subject him to the greatest criticism. If for no other reason, Clifford would have disagreed with a man who deliberately stirred up the very agitation which all good patriots had been trying to allay. When quiet seemed to have been restored and the country assured of a period of rest and prosperity, to plunge it purposely into a state of turmoil, was, to say the least, bad judgment.

These two facts alone are enough to have caused him to

oppose Douglas, but we also know that he was a follower of Buchanan. The latter has left to posterity the statement of his views, that although down to this period he considered the anti-slavery party of the North had been the assailants and kept the people of the South in constant irritation, yet "in sustaining the repeal of the Missouri Compromise the senators and representatives of the southern states became the aggressors themselves."[1] Such were without doubt Mr. Clifford's views.

While these events were taking place, Mr. Buchanan was minister to England.[2] Therefore he was the most logical man the Democrats could run for the next president. At the convention of 1856, he was nominated on the seventeenth ballot. He was the best choice the party could have made at the time.

The platform of 1856 adopted "the principles contained in the organic laws establishing the territories of Nebraska and Kansas as embodying the only sound and safe solution of the slavery question."[3] On this statement of faith Buchanan was elected. Mr. Clifford stumped eastern Maine for him. The ratification of the Kansas-Nebraska Act caused the final split among the Maine Democrats. It was during this campaign that the Republican Party first came into being. John C. Frémont, the son-in-law of Thomas H. Benton of Missouri, was the candidate of that party. The time had not yet arrived for a Republican victory, however, though the result in Maine was in their favor. Hannibal Hamlin carried[4] the party to victory and was elected governor. Many men, however, who later joined the Republican ranks voted at this time for Buchanan, as the only man who represented both North and South. They objected to Frémont on the ground

[1] G. T. Curtis, *Life of Buchanan*, vol. ii., page 196.
[2] Rhodes, vol. ii., page 170. [3] *Ibid.*, page 171.
[4] *Life and Times of Hannibal Hamlin*, page 286.

that his following was sectional, and that his election would lead to a disruption of the Union. Even Benton, a strong anti-slavery man, could not support his son-in-law for this reason.

Mr. Buchanan's campaign was the last in which Mr. Clifford took part. His long services to the party were soon to be rewarded. In the following letters we recognize old friends:

My Dear Sir:

I delivered your letter to the President, & had a few minutes' conversation with reference to the Judgeship, but he said nothing from which I could fairly infer his intention. I sincerely hope, however, he will appoint you, & whatever, in my humble way, I can do to produce that result, I *will* do & do it heartily. This is strong language from me but it expresses my meaning.

I am deeply pained that one whom you so materially aided, & who promised so much should have cheated you in Portland. It is gratifying, however, to learn that the treachery is not likely to do practical mischief.

As soon as I can get any further news on this subject, you shall hear from me

In haste
Very truly
John Appleton

Washington Septr. 11th, 1857

Hon. N. Clifford
&c &c &c

Washington Nov 12th 1857

Dear Sir:

Upon communicating with Mr Macdonald after my return to the City & hearing such a favorable report in regard to the Judgeship, I thought I would not attempt to converse with the Prest for some days, unless the opportunity was highly favorable— Accordingly I deferred it until two days ago, when I

had a better chance to speak to him about it than I had anticipated, & was able to talk with much more freedom than I supposed I should when I saw you—. He did not say a great deal, but listened with apparent satisfaction & all that he did say was highly favorable, & fully confirms the impression given to Mr. Macdonald, and I am decidedly of opinion that the matter now is all right— What may transpire in the month intervening before the nomination will go in, I cannot predict, but see no reason to apprehend any change unfavorable to you. Mr Appleton will know of all that occurs & will give everything the most favorable turn. I am entirely satisfied from what the Prest did say, that you have acted wisely in leaving the matter wholly in his hands, & that any exhibition of over anxiety on your part would be injurious rather than beneficial. It has always seemed to me that when he should look over the whole ground he could come to no other result than that of your appt, and I am now fully confirmed in the belief that his inclinations will correspond with the convictions of his judgement. No such thing as you mentioned to me has occurred or will occur, and I am persuaded the report was wholly without foundation.

What I can do in the matter amounts to so little that I am almost ashamed to trouble you with a letter— It is needless to say that if further opportunity occurs you shall have the benefit of my *mite*

Very truly
Yours

H. J. Anderson

Hon N. Clifford

Nov. 25th/57

My Dear Sir:

You will be nominated as soon as the Senate is ready to receive nominations. There can be no doubt of this, & you may safely proceed quietly to make your arrangements. You will not wish to come, I suppose in advance of the appointment, but you ought to know in advance. Don't let the

Argus follow Forney in his wrong direction. The President & Cabinet are united & the other way.

You shall hear from me again tomorrow.

In haste
Yours truly
JOHN APPLETON.

PLYMOUTH Jany 12th. 1858

MY DEAR SIR:

Allow me to congratulate you on your appointment to the distinguished position of Judge of the Supreme Court of the United States—a situation for which you are eminently qualified, and which will, we fondly hope, secure to our Country for many years the benefit of your Talents, Experience and Integrity.

The carping of . . . Greely and others of that "ilk" is of itself conclusive evidence that a good selection has been made, for there is nothing which these *fellows* more dread than a Judiciary who will fearlessly and impartially expound the meaning of the Constitution. Their chief reliance is, and has ever been, in conferring upon that Instrument the Protean Elasticity which characterized their own Political Creed. . . .

Very Respectfully & Sincerely
Your Most Obt Servt
SAMUEL A. BURNS.

HON. NATHAN CLIFFORD.

CHAPTER X

Justice of the Supreme Court

Mr. Clifford was appointed to the Supreme Court of the United States by commission dated January 12, 1858.[1] He took his seat on the twenty-first day of the same month, and was assigned to the first circuit, which comprised Maine, New Hampshire, Massachusetts and Rhode Island. This was the culmination of his career as a public man.

To say that the choice was well received would be to distort facts. He occupied the place recently vacated by the resignation of Justice Benjamin R. Curtis,[2] the writer of a dissenting opinion in the Dred Scott case, a man of great intellectual abilities, of polished manners, and, in short, of a type particularly acceptable to the highly cultured, university educated, Boston society. The differences between the two men, both in point of early life, education, environment and political beliefs, were as marked as possible. To the somewhat self-sufficient aristocracy of the New England metropolis the change was not for the better. In the minds of Republicans throughout the northeastern states, Judge Clifford was a pro-slavery Southern sympathizer.

Two years before, the presidential election had been held, the last for twenty-eight years to result in the inauguration of a Democrat. Frémont had carried an overwhelming number of northern states, but Buchanan

[1] The only Justice Maine has ever had. [2] Rhodes, vol. ii., page 251.

had won by the vote of the solid South, of Pennsylvania, Indiana and Illinois.[1] In spite of a strong majority of electoral votes, the position of the party was not secure. "Bleeding Kansas" became a running sore, and Judge Douglas and Buchanan quarrelled.[2] The Democracy split. There was an overheated feeling in the country generally. Judge Clifford belonged to the anti-Douglas wing of the party. Therefore opposition was not confined to the Republicans alone. "Pot-house Democratic politician," "a miserable dough-face," "a northern man with southern principles," "a mere demagogue," were some of the terms applied to him by newspapers at the time. It has been said that no man ever went upon the Supreme Bench amid such a deluge of abuse as did Judge Clifford. However, his nomination was finally confirmed, and by the aid of those who differed from him in political belief. His opponent of a lifetime, William Pitt Fessenden, spoke and voted in his favor.[3]

In addition to such unreasonable objections there were others which at first thought might be justified. Who was Judge Clifford? Attorney General under Polk for a short time and later minister to Mexico, of course, but what were his qualifications as a lawyer? The records showed that he had never acted as counsel in the trial of an admiralty or a patent case. Was this the proper man to place upon the highest tribunal in the country?

While it might be admitted that such fears were natural, though as subsequent events showed, unfounded, it should be borne in mind that appointments to the Supreme Court are made on other grounds of fitness than mere success as a practicing attorney. A large and most important part of the work of that body is passing upon the constitutionality of questions brought before it. In this

[1] Rhodes, vol. ii., page 235.
[2] *Ibid.*, page 287.
[3] Hatch, vol. ii., page 404.

function, it is the pioneer tribunal of the world.[1] At the time of the adoption of the Constitution the idea that a judiciary should have the power to declare void certain acts of a legislature was entirely new. No such power exists to-day in England, where an act of Parliament is the supreme law of the land, and no bench at present exercises that right to the extent, and with the far-reaching consequences customary to the Supreme Court of the United States.

These circumstances, which are not always realized by persons who freely criticize the selection of justices, make two qualities essential to the nominee to the highest American tribunal. First, because of the opposite views as to the construction of the Constitution already referred to, the President of the United States is bound to choose a man thoroughly saturated with the tenets of the faction in power. To do otherwise would be folly, for if one believes that a strict adherence to the letter of the instrument is the only safe course for the ship to steer, the elevation of a man of opposite persuasion would be the doing of an act detrimental to the country. Secondly, owing to the peculiar nature of the power of the court, statesmanlike abilities are of the very highest importance.

At no time in the history of the nation had political partisanship been more strictly adhered to than in the period just preceding the Civil War. The Republican party had come into being with the avowed purpose of putting an end to the extension of slavery. In Democratic eyes the agitation of this question had been the cause of all the trouble and controversies which had arisen in Congress since the Missouri Compromise. Negro servitude was a local institution; and right or wrong, the central government had no legal means of ending it. It

[1] De Toqueville, *Democracy in America*, vol. i., page 98. Goodnow, *Principles of Constitutional Government*, pages 232–3.

was a most dangerous and subversive doctrine, this one of the new group, and yet it was gaining strength and power every day. The liberty of the citizens and the integrity of the Union demanded that the men who had to interpret the laws of the land in the last instance should be of the true faith. They must not only be Democrats; they must believe in Jacksonian principles as in a creed, if the country was to be saved.

The two qualities above mentioned were very markedly in evidence in the character of Judge Clifford. From the time of his admission to the bar he had clung to his party with a tenacity and devotion almost religious. In his eyes its doctrines could preserve the union of the states. Adoption of other principles would destroy it. His successful administration of the difficult Mexican mission had shown the breadth of his views. He was no mere politician. He had proved himself to be a statesman with strong Democratic convictions. Moreover, he had never failed to maintain with credit a position to which he had been elevated, no matter how strange to him the same might be.

Beyond all this, the man who knew most about these characteristics was now President of the United States. Association in the cabinet of President Polk, and later service in Mexico under Buchanan as chief, had impressed the latter (even though the two men had not agreed as to the conduct of the Mexican War), with the fitness of Mr. Clifford for the vacancy on the bench. He probably felt, as did the Federalists at the expiration of the term of the elder Adams, that the times were demanding men of a different political faith, wrong though such a call was, and that the only way in which the tide could be stemmed was by the appointment of persons who would interpret the laws, fearlessly and determinedly, along the lines of conservative beliefs. It was equally important that no

narrow charlatan should be selected for this high office at a time when Democratic doctrines could hope to live only if explained by men of broad statesmanlike vision. In a man possessing such qualifications, a lack of experience in certain lines of practice was easily remedied.

Again if the appointee was to exercise a great influence on the course of events, he ought to be young enough to be assured of a fairly long term on the bench. Mr. Clifford was fifty-four years of age, in perfect health, and possessed a rugged constitution with which hard work seemed to agree.

The following letter no doubt refers to the opposition to his selection, and gives a picture of the state of mind of the new judge:

Boston June 21, 1858

My Dear Wife:

I fear that I am writing so often that you will think I have entirely reformed my habit of neglect—it is not so however as the future will show—having just received a beautiful letter from Ch Jus Taney I thought I must send it to you & trust you will keep it as one among the most valuable letters we ever received. Read it to George Franklin and teach him to emulate the industry and purity of life which even now constitute the characteristics of his greatness. Every word of it breathes sincerity and friendship— He is truly my friend & that is honor enough at present— I had the honor to enjoy the friendship of Polk & am now proud of the friendship of Buchanan & Taney— Enemies, if any I have, cannot harm me while such men are my friends, and such they are & I trust will continue to be during our joint lives— I have also a letter from Mr. Shepley informing that the Insurance company at Edmanton have decided to pay my whole loss on the Colby property so that we shall soon be in funds—and

then you will get your trunk—my term here still promises to be a pleasant one. No question has been presented that will give me much trouble— Cases are argued here with great ability— Mr. Choate is in the next case—I have not heard him yet— Judge Curtis has argued two cases & I learn has four more for argument— He is very able— & so is Sidney Bartlett Esq—& Mr. C. F. Loring—

Very truly

Your husband

NATHAN CLIFFORD

In order to appreciate Judge Clifford's service upon the court, the influence which he wielded and the unique position which he occupied there, a study of its personnel is necessary. In 1858, Taney was chief justice. Appointed by Jackson in 1835, he was number six in the line (if Rutledge, who was not confirmed and Cushing who never sat, be counted). He was the immediate successor of John Marshall. He represented the swing of the pendulum from Federalist implied powers to Jeffersonian strict construction.

The other justices were James M. Wayne of Georgia, John McLean of Ohio, and John Catron of Tennessee, all three appointed by Jackson; Peter V. Daniel of Virginia, Samuel Nelson of New York, Robert C. Grier of Pennsylvania, and John A. Campbell of Alabama, nominated by Van Buren, Tyler, Polk and Pierce respectively. Thus the chief justice and six of the seven associates were the choice of Democratic presidents, and Judge Nelson was of that belief. Judge Clifford lived to see all these men die or resign, until he became the sole surviving appointee of a Democratic executive, the only man whose commission antedated the Civil War, the single link which bound the court to the times of Jackson. To one of such strong convictions his position thus became a sacred trust; to use

what power he had to keep alive the flickering flame of the faith to which his first and abiding allegiance had been sworn. To this task he set himself steadfastly, never hesitating to write a dissenting opinion when the decision of the majority seemed to him to be contrary to the true principles of the Constitution. His influence with his associates was tremendous. His age, long experience, his integrity and high character, his unfailing courtesy and absolute fairness, gave him a standing second to none, in spite of his political beliefs. During the illness and absence, and after the death, of Chief Justice Chase, he became the acting head of the court. There was a desire expressed by his friends that he might be offered this supreme honor. Such a culmination of his career was, however, under all circumstances impossible. His long life drew to its close; while he, refusing to resign and accept from the government he had served so faithfully the life of ease[1] to which he was entitled, fought on, but died too soon to see the accomplishment of the hope of his later years, the return to power of the party whose standard he had always followed. There is a pathos in the picture of the old warrior with his back against the wall struggling against tendencies which he could not overcome, and one's sympathy goes out to him as to John Marshall during the last years of his judgeship when he found himself in a similar situation as to Federalist doctrines.[2]

The first break in the membership of the court came with the death of Judge Daniel in 1860;[3] the second with that of Judge McLean in 1861. In the latter year, Judge Campbell felt called upon to resign his commission. He was a believer in the right of secession, though he deemed the act

[1] U. S. Statutes at Large, Act of April 10, 1869.

[2] Beveridge, *Life of Marshall*, vol. iv., pages 514–515.

[3] As to dates of incumbency of various justices, see *The Nat. Cyc. of Am. Biog. Index*, page 73.

ill advised. Holding such views, he felt that his honor forbade his longer association with men who differed from him. He followed his state into the ranks of the confederacy after remonstrances from Judge Clifford as to his beliefs, apparent from the following letters.

WASHINGTON CITY
April 18th 1861

MY DEAR SIR:

Events at present look so threatening & the hopes of peace so remote that I suppose it will soon become necessary for me to make my final decision. I therefore acquaint you with the fact, so that you should not be surprised by anything I should do.

I long apprehended that a collision of arms would take place at Sumter unless there was something done to avoid it. The day after the adjournment of the Supreme Court (15 March) Judge Nelson—who you recollect agreed to remain to further the counsels of peace—informed me that the demand upon the administration by the commissoners of the Confederate States for recognition was an embarrassment, & might disturb a peaceful solution of the difficulties. I told him I knew Judge Crawford one of the commissioners and could advise him without diffidence in reference to such a matter— We had together intercourse in such a quarter, and with such a result that I said to Judge Crawford the same day with his approbation

I feel entire confidence that Fort Sumter will be evacuated in five days & that this is felt as imposing great responsibility on the administration

I feel confident that no measure changing the existing status of things prejudicially to the Southern Confederate States is, at present contemplated

I feel entire confidence that an immediate demand for an answer to the communication will be productive of evil & not of good. I do not believe that it ought at this time to be pressed. I earnestly ask for a delay until the effect of the evacuation of Fort Sumter can be ascertained.

The substance of this communication was made known the

same day to the same quarter referred to & the demand for an answer was not pressed. Five days passed over— The commissioners telegraphed to Charleston to ascertain if the fort was evacuated, or likely to be & Genl Beauregard replied No, but that Anderson was then repairing it. I was called on & Judge Nelson being still here—another visit was made

I replied to the Commissioners— That Sumter would be evacuated— The failure to do so was not in bad faith nor for any cause, incompatible with the purpose to do so, as previously stated & that I should have notice of a change in the status— Judge N heard all that I heard and read my communications, & sanctioned them During the few days that followed, preparations were apparently in progress for evacuation— Messengers went backward & forward & Col Lamon now marshal of this district made a special visit— On the 30th March Gov Pickens sent a telegraph that Lamon had not returned as was expected— Why was not Sumter evacuated?— I delivered this telegram. Was told that Lamon's visit had no significance & he had no authority to make arrangements— & "That no attempt would be made to supply Sumter without notice to Gov Pickens"— This was the first of April.

During that week preparations were made to supply Sumter — Supplies men stopped at Sumter— Notice was given 8th of April that Sumter would be supplied— Demand for the evacuation of Sumter was made on the 11th Refusal took place— Civil War—

I suppose that you may have no knowledge of these facts They must soon be made known. I do not mention any name except that of Judge Nelson for obvious reasons.

I suppose the great excitement that rages at the North will soon subside & that sober counsels will resume their sway

I shall remain here some days so please write to me, at this place

Very truly your friend

J A Campbell

Hon Nathan Clifford
Portland
Maine

Washington City
29 April 1861

Dear Sir:

I have recd your kind letter— I regret to differ from you, in respect to the course of conduct I ought to pursue but I find that my deference to the wishes of others have almost consigned me to disgrace among my own people.

I regret to resign, principally as it diminishes the intimacy of those relations, which have grown up, among the members of the court & from which I have derived much happiness— I prize very highly your friendship, which I trust will not be determined by the dissolution of our official connections.

This administration seems determined to have a sectional war— The blockade of Virginia & North Carolina must result in the scission of the Union along the whole line between the slave & non slave states

I suppose the Congress at Montgomery will formally declare war— What will the end be?

The frightful excitement at the North has stimulated the administration to desperate measures & there is a party in the confederate States equally desperate— Oh for peace peace

With many wishes for your happiness believe me

Truly your friend

J. A. Campbell.

Mr. Justice Clifford

Buchanan retired from office, leaving vacant the chair formerly occupied by Daniel, and Lincoln hesitated at first to appoint Northern men to fill judgeships previously held by Southerners.[1] However, in 1862, he did nominate Swayne of Ohio, Miller of Iowa, and Davis of Illinois; and in 1863, Stephen J. Field of California was added to the bench as the tenth justice under the act of March 3, 1863.[2] From this time till the death of the venerable Chief Justice in 1864 no changes occurred. Then Salmon P. Chase was

[1] *Life of Salmon P. Chase* (Am. Statesmen Series), pages 324–325.
[2] U. S. Statutes at Large.

appointed in Taney's place. Judge Catron died in 1865, Judge Wayne in 1867, Judge Nelson resigned in 1872, and Judge Grier, in 1869 to take effect 1870. Thus in fifteen years every one of Judge Clifford's original colleagues were removed from the court, leaving him alone as the representative of the old régime.

From 1865 to 1869 no nominations were made, so that the bench, during these years, consisted of Lincoln's five selections together with Clifford, Grier, Nelson, and up to 1867, Wayne. By act of July 23, 1866,[1] no appointments could be made to the Supreme Court until the number of associate justices was reduced to six, and it was then to consist of a chief and seven associates. In 1869 the law was again amended, increasing its size to a chief justice and eight others.[2] Under this law Grant had two vacancies to fill after the resignation of Judge Grier, and accordingly selected, in 1870, Strong of Pennsylvania and Bradley of New Jersey. In 1872 Hunt of New York took Nelson's seat and in 1877 Harlan of Kentucky came on in place of Davis. In 1874, the honor of chief justice was conferred on Morrison R. Waite of Ohio. On the resignation of Strong, Woods of Georgia was nominated by Hayes. While all these new judges were from the Republican ranks, Clifford was not alone in his beliefs. Whether through his influence, or for other causes, it is impossible to state, yet, Field and Davis after their appointments were commonly classed as Democrats, and Chase's later opinions show a leaning to that side.

An analysis of the constitutional decisions of the Supreme Court from 1864 to 1867 indicate that its opinions were still democratic by a small margin. In the case of ex parte Milligan (4 Wall., 142), 1866, it was held that Congress could not authorize military tribunals in districts

[1] U. S. Statutes at Large.
[2] *Ibid.*, Act of April 10, 1869.

where civil courts were open. The majority consisted of Davis, Field, Clifford, Nelson and Grier. Those in dissent were Chase, Wayne, Swayne and Miller. In ex parte Garland (4 Wall., 333), 1867, and Cummings *vs.* Missouri (4 Wall., 277), 1867, in which the so-called test oaths were held unconstitutional, the division was almost the same: Field, Clifford, Nelson, Grier and Wayne against Chase, Swayne, Davis and Miller.

Upon the death of Judge Wayne in 1867, the court was evenly divided unless Judge Davis should be swung over permanently to the conservative view. He had decided with the majority in the Milligan case, but later with the minority. Three suits were pending on the question of the validity of the reconstruction acts, and speculation was rife as to the probable results. In two of the cases, however, the judges unanimously refused to take jurisdiction on the ground, in the first, that there could be no interference with executive discretion, and in the second, on the theory that they could not pass on a purely political question. The third case was dismissed from the docket because Congress, before the decision, took away certain of the appellate powers,[1] of the Court.

After the failure of the impeachment proceedings against Johnson and after the appointment of Strong and Bradley, the character of the tribunal became strongly Republican. This is best illustrated by the so-called legal tender decisions.

An act of February 25, 1862, authorized the issue of notes of the United States which should be legal tender for the payment of all debts. The bill had been passed with the consent of Chase[2] while he was Secretary of the Treasury. It was deemed by him at the time to be necessary and constitutional. Other similar acts were later passed.

[1] *Salmon P. Chase*, Am. Statesmen Series, pages 348–350.
[2] *Ibid.*, page 247.

The first judicial construction of this law was in Lane County *vs.* Oregon (7 Wall., 71), February 8, 1869. The court here held that the acts had no application to taxes imposed by state authority. Again in Bronson *vs.* Rhodes (7 Wall., 229), February 15, 1869, the judges pronounced the enactments not applicable to contracts which specified that payments thereunder should be made in gold and silver coin. In both cases the Chief Justice delivered the opinion, in the first, without a dissent. In the second, Miller disagreed with the majority, and Davis and Swayne, while siding with Chase, somewhat limited their concurrence.

Both these causes showed, in a measure, that the court was working toward a decision which should hold the legal tender acts unconstitutional. Gold was at a premium, and as a practical matter, the laws were a two-edged sword, cutting both ways. If they were held valid, a person contracting before the passage of the acts, and expecting gold or silver in payment, might be obliged to accept paper currency which was in circulation at a considerable shrinkage from par; while, on the other hand, if they were declared unconstitutional, the person who had contracted in contemplation of the law and had expected to pay in paper might be called upon to pay in specie of much greater value.

The question as to the use of the notes in obligations made prior to the passage of the bills came squarely before the court in Hepburn *vs.* Griswold (8 Wall., 603), February 7, 1870, before appointment of either Strong or Bradley. Judge Grier sat during the hearing. The decision, delivered by Chase, was to the effect that as to such contracts the law was unconstitutional, the ground being that no enactment subsequently passed could make valid a kind of payment not contemplated at the date of the agreement. The language of the Chief Justice, however, is

sufficiently broad in some instances to cover all contracts, whether prior or subsequent. A dissent was written by Miller; Swayne and Davis agreeing with him. Therefore the majority of the court consisted of Chase, Clifford, Field, Nelson, and Grier, who did not resign till after the case was determined, though he was not on the bench at the time the opinion was read.

After the appointment of Bradley and Strong, there was great pressure brought to bear on the court to overrule its previous decision. It was well known that both the new appointees believed in the constitutionality of the notes. There were several cases pending which could be used as pretexts for re-hearing, and though Chase, Clifford, Field and Nelson opposed the project, the very unusual proceeding was finally adopted, it is said, at the instance of Judge Bradley.[1]

The cause selected to be the vanquisher of the doctrines announced in Hepburn *vs.* Griswold, was Latham *vs.* United States. The Lathams had a contract with the government, dated 1855, stipulating that payments were to be made in "good and lawful money of the coin of the United States." Chase, as Secretary of the Treasury, had, in 1863, refused to pay them specie and had tendered greenbacks which had been received under protest. Suits had been instituted for the difference in value between the notes and gold.

When Latham *vs.* United States came up for argument, the counsel for the plaintiff refused to proceed, insisting that the rights of his clients were fully established by Hepburn *vs.* Griswold. In the course of the proceedings, the Chief Justice announced that the court had agreed that the decision in Hepburn *vs.* Griswold should apply to all later cases. Justice Miller thereupon contradicted Chase, saying that such a statement was untrue and represented

[1] *Salmon P. Chase*, American Statesmen Series, page 402.

the ideas of the speaker and not of the whole bench. The different judges then expressed themselves regarding their memory of the incident in a somewhat undignified way, and in a manner showing almost hostility between the two factions.[1] The case was, however, dismissed against the protest of Bradley.

The determination to have Hepburn *vs.* Griswold overruled was not overcome, and the new judges finally carried their point by getting the court to hear arguments in Knox *vs.* Lee and Parker *vs.* Davis (12 Wall., 457), commonly known as the legal tender cases. A decision was handed down May 1, 1871, in which the acts were declared constitutional and the conclusions arrived at in Hepburn *vs.* Griswold flatly overruled. The bench divided, Justice Strong speaking for the majority, comprising also Bradley, Miller, Swayne and Davis, while Chase, Clifford, Field and Nelson dissented.

Judge Clifford wrote an opinion, pointing out, in addition to the unconstitutionality of the acts, the fact of the dangerous practice of reversing a decision in so short a period. He considered this as one of the best ever delivered by him and always referred to it with pride and a firm conviction as to its correctness. The matter should not be dismissed without mention of the extraordinary situation presented by having the Chief Justice pass on the constitutionality of measures enacted with his consent while he was Secretary of the Treasury. It took great courage for Chase to act as he did. However one may feel as to his opinion, one must commend him for not being afraid to live up to the highest ideals of the tribunal on which he sat, regardless of the consequences to his own reputation. The reader feels that the Chief Justice is speaking for himself when he uses the following language at the close of his opinion in Hepburn *vs.* Griswold:

[1] *Salmon P. Chase*, Am. Statesmen Series, page 403.

"It is not surprising that amid the tumult of the late Civil War, and under the influence of apprehensions for the safety of the Republic almost universal, different views, never before entertained by American statesmen or jurists, were adopted by many. The time was not favorable to considerate reflection upon the constitutional limits of legislative or executive authority. If power was assumed from patriotic motives, the assumption found ready justification in patriotic hearts. Many who doubted yielded their doubts; many who did not doubt were silent. Some who were strongly averse to making government notes a legal tender felt themselves constrained to acquiesce in the views of the advocates of the measure. Not a few who then insisted upon its necessity or acquiesced in that view, have, since the return of peace, and under the influence of the calmer time, reconsidered their conclusions, and now concur in those which we have just announced."[1]

It is hard to conceive of a more difficult position than the one occupied by Judge Clifford during the war. Imbued as he was with the tenets of his own party, accused of being in sympathy with South, condemned by Democrats as well as Republicans; to hold the scales of justice evenly, to enforce his ideas where possible in his decisions, at the same time supporting the government in the prosecution of the war, was a task to try the nerves and tax the strength of a very giant. Yet this was exactly what he did, and no word of criticism was ever uttered as to his absolute loyalty and devotion to the administration in its trials.

In proof of this statement one is referred to some of the litigation arising at this period respecting the extraordinary powers assumed by Congress and the executive in

[1] *Salmon P. Chase*, American Statesmen Series, pages 395–396.

carrying on the war. In the "Grapeshot" (9 Wall., 129), 1870, provisional courts set up by direction of the President without legislative authority in parts of the seceded states were upheld. In United States *vs.* Kehler (9 Wall., 83), 1870, the following language is used:

"The whole confederate power must be regarded by us as a usurpation of unlawful authority, incapable of passing any valid laws and certainly incapable of divesting by an Act of its Congress or an order of one of its departments, any right or property of the United States."

In Hickman *vs.* Jones *et al* (9 Wall., 197), 1870, the decision speaks of the "pretended Government of the Confederacy" and says ". . . . the act of the Confederate Congress creating the tribunal in question was void. It was as if it were not."[1] In United States *vs.* Anderson (9 Wall., 56), 1870, the court enforced the confiscation statutes and those for the collection of abandoned property, and in Miller *vs.* United States (11 Wall., 268), 1871, declined to allow jury trials in matters arising out of these laws on the ground that its acts were military in character under the power to declare war and make rules respecting captures. In White *vs.* Hart (13 Wall., 646), 1872, the whole system of congressional reconstruction was approved and the idea of a Union "indestructible and perpetual" again affirmed.[2] Regarding financial legislation, Veasie Bank *vs.* Fenno (8 Wall., 533), 1869, upheld the ten per cent tax on state bank notes, and Collector *vs.* Day (11 Wall., 113), 1871, by implication, held an income tax constitutional.[3] In none of these cases did Judge Clifford dissent except in that of Miller *vs.* United States in which the question of jury trials was involved.

[1] *Salmon P. Chase*, American Statesmen Series, page 375.
[2] *Ibid.*, page 380. [3] *Ibid.*, pages 386–388.

A great deal has been said, justly and unjustly, as to the stand of the Democrats of the northern states prior to and during the Civil War. The mere fact that a man wore the badge of this party was sufficient in some minds to dub him a copperhead and a traitor. The views of one who believed that each commonwealth had the right to withdraw from the Union at its pleasure and of those who held state sovereignty to be limited just short of this power were in many respects identical. Still there was this stongly marked difference of opinion, and comparatively few of that faith at the North considered secession to be a right of the states.

In the case of Day *vs.* Buffington, reported in 3 Clifford, page 389, Judge Clifford gives his views on these matters. The expression of them in his own words seems to convey so much more conviction than any attempt at paraphrase can do that the following quotation is presented without further apology:

"Unquestionably the Constitution and the laws of the United States made in pursuance thereof, and all treaties made under the authority of the United States, are the supreme law of the land, because it is so ordained in the Constitution, but the same instrument also provides that the powers not delegated to the United States by the Constitution nor prohibited by it to the States, are reserved to the states respectively or to the people, and it is an obvious rule of construction that these two provisions must be considered together in determining the question under consideration, as they are important provisions in the same instrument, and cannot be regarded as in any respect repugnant to each other.

Counties and other municipal corporations were created by the States; but the States were not created by the United States, as the States existed as independent sover-

eignties before even the Union was formed, and they continued to be such from the date of the Declaration of Independence until the Articles of Confederation were ratified; and even then it was provided in the second article that 'each State retains its sovereignty, freedom and independence, and every power, jurisdiction, and right which is not by the Confederation expressly delegated to the United States in Congress assembled.' . . . .

"Such powers as the Confederation possessed operated only upon the States as corporations, and not upon the people of the States; and the system of government as adopted made no provision for an executive of any kind, nor for a judiciary except in certain matters of prize, and for the trial of piracies and felonies committed upon the high seas. . . . Difficulties and defects of the kind, too numerous to mention in this investigation, led to the formation and adoption of the present Constitution, which, as recited in the preamble, was ordained and established, 'in order to form a more perfect union, establish justice, insure domestic tranquility, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity.' Perpetuity was as much the object which the framers of the instrument had in view as any other of the high purposes therein described, as their declared aim was to secure the blessings of liberty to their posterity as well as to themselves and their constituents. They did not attempt to amend the old system, but they ordained a new one, vesting the powers of government in three separate departments, to wit, the legislative, the executive, and the judicial, and providing that the powers granted should operate not merely upon the States as under the Confederation, but upon the whole people, and investing the new government with most ample powers to enforce the prohibitions of the Constitution, and the laws passed by Congress in pursuance of its provisions.

"Evidence to show that the union of the States as perfected in the Constitution was intended to be indissoluble, pervades every part of the instrument, as is sufficiently shown from the extent of the powers granted, and the amplitude of the means provided to carry them into effect. Congress may legislate for all the purposes specified in the express grants conferring such powers, and may pass all laws necessary and proper 'for carrying into execution the foregoing powers, and all other powers vested by the Constitution in the government of the United States, or in any department or officer thereof.'

"Provision is also made that the President shall take care that the laws be faithfully executed and that the judicial powers shall extend to all cases in law and equity, arising under the Constitution, the laws of the United States, and treaties made or which shall be made under their authority. The intended permanency[1] of the new government is portrayed in every one of these provisions, to which it would seem that nothing need be added to show that the doctrine of secession is a wicked heresy; but, if more be needed, it is found in Sec. 4 of the fourth article of the Constitution, which provides that the United States shall guarantee to every state in this Union a republican form of government, and shall protect each of them against invasion and . . . domestic violence. . . . They [these views] may be assumed as truths which cannot be contested; but it does not follow that the government ordained by the Constitution is a government of unlimited powers. On the contrary, the settled construction is that the government of the United States is one of limited powers, which is shown to a demonstration by the tenth amendment, which reserves to the States respectively or to the people all power not delegated

[1] Compare Chase's phrase in Texas *vs.* White: "an indestructible Union composed of indestructible States."

to the United States by the Constitution, nor prohibited by it to the States."

On constitutional questions Judge Clifford was of the Taney type, rather than of the Marshall stamp of jurists. That is to say, he believed in an interpretation of the Constitution which was confined to the exact meaning of the words used. He did not attempt to read into the instrument any of those implied powers, the exposition of which has made the name of John Marshall famous. To one who believes that in the end all things are decided for the best, it is easy to hold the opinion that it was necessary in the early years of the republic to have John Marshall Chief Justice of the United States, but that it was equally important that he should have been succeeded by Roger B. Taney. Broad construction was certainly an important element in building the strength of the nation, yet had it been extended to an unlimited degree, and had it not been checked by the decisions of the later school of jurists, the existence of a union of states might have been snuffed out, and given place to a collection of administrative units as in the present French Republic.

The New York *Tribune* said of Judge Clifford in this connection:

"It was in the causes occasionally occurring in which political issues are indirectly involved that his conservative spirit shone most clearly. He was appointed from the Democratic side, toward the culmination of Democratic policy before the war, and naturally felt little sympathy with the rise and growth of the enlarged views of national authority and Federal power which soon afterward obtained. Not only in the judgment against General Neal Dow, in the dissenting opinion against the legal-tender acts, and in the deliberations of the Electoral Commission, mentioned lately in the Tribune

but in many other instances he made whatever stand he could against the movement of his times yet always with learning and integrity. Thus in the Circuit Court he readily held that Confederate privateers were not pirates, and that the income tax could not be collected from a State Judge. Early in the war when a Massachusetts man under military arrest by order of Secretary Cameron asked him for a writ of habeas corpus, which he granted, but which the military authorities refused to obey, he calmly regretted that officers of the United States should obstruct the writ, and that the court had not the command of the physical force needful to effect service and ordered the writ placed on file, to be served whenever practicable!

We do not hesitate to pronounce Judge Clifford a jurist of eminent ability and usefulness. His ability was that in which learning, industry, integrity and professional enthusiasm are the chief components. In usefulness he belongs in the class of which Chief Justice Taney was a type. That insight, that unconscious sympathy with human progress, which in rare instances enables a judge, while scrupulously administering existing law, to expand, advance and develop it commensurately with human needs, he did not much display. We do not place him in the class of which Marshall, and perhaps Story, on the Federal bench, Mansfield in England, Kent and perhaps Oakley in this state, are distinguished representatives. But his name will long hold a respected place in American judicial history."

On the other hand, regarding the growth of the other branches of law, his breadth of vision and willingness to expand and develop established principles to meet new situations was very marked. The law of patents, of admiralty (of which he came to the bench entirely ignorant and in which he was later recognized as an authority), and of bills and notes, as it stands to-day in America, owes much to his progressive interpretation. He sym-

pathized with the growing demand for a more liberal recognition of intellectual property and his decisions in the former field, instead of being marked by a conservative care to keep within the letter of the law and the track of precedent, show a disposition to advance in accordance with the requirements of human progress.

As to the literary style of his opinions, they are characteristic of his life. They represent an enormous amount of study, but are not illuminated by any flashes of brilliancy. They move on slowly, sometimes almost ponderously, but always irresistibly, from premise to conclusion. No point is omitted which can in any way bear on the question at issue, and the end is reached by a process which leaves no loopholes for argument. An amusing feature of his opinions, particularly the earlier ones, is the omission of the definite article. There is a tradition that one of his associates in the conference room suggested the following resolution: "That Brother Clifford be encouraged to use the definite article *in moderation*."

No account of his judgeship would be complete without a mention of the great mental labors performed by him while on the bench. At the time of his appointment most of the judges of the Supreme Court were old men. In many cases they were enfeebled by illness and unable properly to perform their just share of the work. The docket was crowded and there was a great accumulation of untried entries.

To this situation Judge Clifford came, a man of fifty-four years of age, in perfect health, and with an almost unlimited capacity for hard work. His labor was made more difficult from the fact of his comparative inexperience in the work of a Federal Judge. His practice had been confined to the state courts and had been of a nature far different from the kind of problems which were to be presented to him in his new position.

Largely through Judge Clifford's assiduity, business was reduced after months of effort to the dimensions of current matters. At this time it was customary for the Supreme Court Judge to sit during his so-called "vacations" in the Federal Court of the circuit from which he was appointed, there being no Circuit Judges. In Judge Clifford's case such contemplated respite was a nullity. His labors were as arduous here as in Washington, and the same situation confronted him. The District Judges were old and in many cases partially incapacitated, and the new incumbent found the dockets so crowded that it took several years to reduce the congestion.

Another fact should be emphasized as to Judge Clifford's administration of his office. Every lawyer knows that a petulant, impatient or arbitrary manner upon the bench can easily render it impossible for counsel properly to discharge their duty to their client or to do justice to themselves. A correct judicial behavior is thus more than a mere matter of etiquette.

Judge Clifford's attitude was always characterized by a uniform courtesy. He was gentle and considerate, at the same time dignified and self-respecting. His kindness to all lawyers, especially the younger men, was very marked. While he often spoke from the bench it was to elucidate and not to cloud, and very often, by an amusing story, to bring a bit of brightness into the dryness of a long and hard-fought legal battle.

The greatest proof of the value of a man's life and work lies in the reputation of him which survives a generation or more after his death, when the heat of daily excitement has given place to the cool of calm contemplation. The memory of Judge Clifford is still fresh. His opinions are held by all courts in the highest esteem. Of the men who were best acquainted with him during his judicial career, nearly all are now dead, but to the end of their lives they

spoke of him always with unqualified admiration of his character, his services to his country, his dignified, courteous bearing, and great learning in the law. To the younger lawyers of his day, now old, by whom he was gazed at from afar, his life was an inspiration and a model which has been handed down as a tradition to their children.

CHAPTER XI

Bradish Johnson vs. Neal Dow

THE history of the case of Bradish Johnson against Neal Dow is illustrative of the intense party feeling which obtained between the Democrats and the Republicans during the period immediately following the close of the Civil War, and is particularly characteristic of the campaign between Hayes & Tilden which resulted in the appointment of the Electoral Commission over which Judge Clifford presided. For this reason the matter is here given a prominence out of all proportion to its actual importance. It furnishes an interesting example of how really great men are swayed, in times of stress, to a sincere belief in the correctness of an opinion which in calmer moments would not have received their sanction.

It will be remembered that the Republican Party had been in power uninterruptedly since the election of Lincoln. The exposures and scandals of the Grant administration had led to a strong defection from the Republican ranks, and the Democrats had, for the first time since the war, a fair chance of electing their candidate. Both sides were straining every nerve to accomplish their purposes; the former to bolster up the weak fabric of their record for the past eight years, and at the same time to convince the public that a victory of their opponents meant a destruction of the principles which had saved the Union, the latter to show up all the wrongdoings of their rivals while endeavoring to touch as lightly as possible upon any

unfavorable act of their own previous to and during the War of the Rebellion.

While the City of New Orleans was under the control of the Federal troops, after its capture by them from the forces of the Confederacy, clashes between the inhabitants and the army of occupation were very frequent. The natural antagonism between conqueror and conquered was accentuated by special circumstances, into the details of which it is not now necessary to enter. Whether the northern military officers were in fact as careful as they should have been to guard against the happening of events which would tend to increase this hostility is a question about which many hard words have been said and written. Those who look back upon these times with calmer thoughts and unprejudiced judgment will be tempted to turn aside from such controversies with the conviction that human nature has not changed in the course of the last sixty years.

At the time of the occupation, Bradish Johnson was the owner of an estate, on the Mississippi River, in the State of Louisiana, about 43 miles from New Orleans. On January 29, 1863, Johnson brought a suit in the 6th District Court of the City & Parish of New Orleans against Brigadier General Neal Dow of the 13th Maine Regiment, alleging that on the sixth day of September, 1862, during the temporary absence of the Plaintiff, Captain Snell, acting under the "verbal and secret" orders of General Dow, took from Johnson's plantation twenty-five hogsheads of sugar, plundered the dwelling-house thereon and took one (1) silver pitcher, one-half (½) dozen silver knives, one-half (½) dozen silver spoons, one (1) fish knife, one-half (½) dozen silver teaspoons and other articles. The petitioner described himself in his writ as one who was and always had been a loyal citizen, residing in the State of New York.

The record of the case shows that personal notice of the commencement of the suit was given to General Dow. No appearance or defence was made by him, and after hearing, judgment was entered against him for $1454.81. This execution was never paid by the Defendant and after the close of the war and General Dow had retired from the service, Johnson commenced an action against him in the United States Circuit Court in Maine upon the judgment rendered by the Louisiana Tribunal.

Mr. Dow retained as his attorneys, Honorable Edward Fox and Honorable Josiah H. Drummond. Before the case came on for hearing Mr. Fox was appointed Judge of the United States District Court of Maine and retired in favor of Honorable Woodbury Davis. Honorable Bion Bradbury and John Rand, Esquire, acted as counsel for Mr. Johnson, and Honorable Nathan Webb, as the United States District Attorney, was called upon to represent the interest of the United States Government. Fox, Drummond, Rand, Davis and Webb were Republicans; Bradbury was a Democrat.

Devoid of technicalities, the question raised was whether the judgment sued upon was valid, this in turn depending upon the jurisdiction of the courts of Louisiana over an officer in the army of occupation while the Civil War was still in progress.

Judge Clifford felt that General Dow was amenable to the Louisiana Tribunal. It was quite natural that such should be his opinion. The Democratic view of the status of the seceding states during the rebellion would have led him toward this conclusion. Whether or not they were ever outside the Union, at all events, when occupied by northern troops, they were again restored to a full participation in their former rights and privileges. Therefore, the position of the Federal garrisons in Louisiana was not that of an invading army on foreign soil. The officers

were in exactly the same relation toward the inhabitants of the territory as is to-day the commander of a military post near a New England coast city as regards citizens of the surrounding country. The States' Rights views had many ramifications and their feelers extended a long way. Judge Clifford's dissent in the Supreme Court, when the case was heard on appeal, makes no mention of this doctrine in specific terms, and yet who can doubt that it was at the back of his brain when he was writing in all sincerity his decision in favor of the validity of the Louisiana judgment.

In spite of the strong feeling which Judge Clifford entertained in this matter, he was careful not to allow it to interfere in any way with his duties as a Judge. He regarded this question as one of the very greatest importance and probably knew that many of the Judges would not agree with his ideas. Therefore, in order to give both parties to the cause the benefit of the decision of the highest court in the country, Judge Clifford desired that the case should be taken to the Supreme Court of the United States. This could be done only upon a certificate of division of opinion between the Judges of the Circuit Court. The Circuit Court would consist commonly of Judge Clifford and Judge Fox, the United States District Judge, or Judge Clifford and Judge Shepley, the United States Circuit Judge. Judge Shepley considered himself unable to sit for the reason that at the date of the commencement of the proceedings in Louisiana, he had been the military governor. Judge Fox was disqualified as he had been originally of counsel for the defendant in the Circuit Court in Maine.

While Judge Clifford would have had the right under these circumstances to decide the issue by himself according to his belief, he still was unwilling to do so, as such a course would have deprived the Plaintiff of his right of appeal to the Supreme Court of the United States. There-

fore, after hearing the case alone, he asked Judge Daniel Clark, District Judge of New Hampshire, to sit with him. This necessitated a re-argument, whereupon the two judges, *pro forma*, took opposite sides.

It is doubtful whether the litigation would have caused a great deal of commotion had it not been for the fact that James G. Blaine, in a speech a few days later at Warren, Ohio, used the decision for the purpose of attacking the Democratic candidate for President at the coming election, Mr. Tilden. In the Portland *Daily Press* of September 30, 1876, occurs the following item:

Mr. Blaine made his first speech in Ohio at Warren last Saturday. In the course of his argument he delivered the following commentary on a recent decision of the United States Circuit Court:

"On Thursday of last week a decision was rendered in the City of Portland, State of Maine, in the United States Circuit Court, Judge Nathan Clifford presiding, with Daniel Clark, District Judge of New Hampshire sitting with him—and I want the attention of the lawyers—confirming the judgment obtained against Neal Dow of the 13th Maine Regiment in Louisiana, giving judgment to a rebel against Dow personally for sugar seized on his plantation by a foraging party from Dow's regiment. They were out foraging and seized some sugar and the man sued for it, and Dow said, 'If you are a loyal man we will give you a receipt, and you will easily get your pay for it!' The sugar was used, a large part of it, in hospitals. Dow said 'If you will show me your loyalty, I will give you a receipt!' and the rebel declined to do it, and got judgment, in a Louisiana Court. The United States Circuit Court at Portland confirmed the judgment, and ordered execution to issue for seventeen hundred and fifty dollars ($1750.00)

"That being so, I say, gentlemen, will it not enable the man that owned the field at Appomattox to collect the ground rent from Grant for the occupancy of it and destruction of the fences and crops. There has never been so menacing a cloud

as this hanging over a free people. More than that, this decision was warmly dissented from by Judge Clark of New Hampshire. He was brought up in the true faith, but the Supreme Court overruled him in the person of Clifford. Clifford is an ingrain, hungry democrat, double-dyed and twisted, dyed in the wool, and coarse wool at that.

"Ex Governor Wood of Vermont, a man of as pure character as lives, writes over his name, 'I have known Mr. Tilden for twenty (20) years. I have debated this question with him personally, and I know that he holds the opinion that the war was unconstitutional. I heard him declare, in conversation with myself since the close of the war, that every man that marched in the United States Army that marched across southern soil was a trespasser, and liable to suit for damages in an action for trespass!' I think that Clifford read that opinion of Tilden's the day before he made his decision in regard to Dow's sugar. And the Democrats tell you the Constitution forbids the payment of these claims!"

This attack made a great stir at the time. The speech was copied in the New York and other important newspapers. The Portland *Daily Argus* on October 2, 1876, answered the attack on Judge Clifford by two articles headed:

"Blaine's Attack on Judge Clifford"
"Blaine Falsifies the Record"

The Portland *Advertiser*, in spite of its political affiliation, printed an editorial in rather grudging defence of the Judge and weak condemnation of Mr. Blaine.

Judge Clifford's family and friends were very quick to defend him against what seemed to them to be a reflection upon his honor and his integrity. Three sons of Judge Clifford, Charles E. Clifford, William Henry Clifford and George F. Clifford, all of whom were lawyers, drew up a summary of the chief points in the case and sent it to the

different attorneys on both sides with the explanation that inasmuch as they were not of counsel and could not have full and accurate knowledge of the facts, they desired to know whether the statement sent was correct. All replied in the affirmative. John Rand wrote: "[I] think it my duty to add, that while Judge Clifford had the power to make his own opinion final and conclusive, his extreme anxiety that no injustice should be done, prompted him to call in Judge Clark in order that so important a question might be re-examined at Washington."

Mr. Bradbury answered, "Judge Clifford, if he had been guided by the spirit most wrongfully imputed to him by Mr. Blaine, could have decided the cause without calling upon Judge Clark to sit with him; but, deeming the questions involved delicate and important, he preferred that they should be determined by our highest judicial tribunal, and adopted the only course by which that object could be obtained."

Josiah H. Drummond said, "I have examined the foregoing and find that it contains a correct statement of the facts. The questions presented to the court were whether the Louisiana Court had jurisdiction of the defendant and of the subject matter of the suit and could render a valid judgment therein."

Judge Fox replied, "After the cause was submitted to Judge Clifford, he very frequently stated to me that he found it was attended with serious difficulties, and he was anxious it should be taken to the Supreme Court, so that his ruling would not be final and conclusive."

It may be considered that undue importance has been given to this case in the foregoing account. It is necessary, however, to recall the state of the public mind during the Hayes-Tilden campaign in order to appreciate how much weight this episode had at the time of its occurrence. As a proof of this fact, the following extracts from eulogies

pronounced five years later at the funeral of Judge Clifford are here quoted: "He has never been accused of acting from partisan bias, except by Mr. Blaine, whose attack was false and groundless as it was base, and was so proved at once by Republicans as well as Democrats," and

"Once an envenomed shaft, shot from the bow of a political partisan was aimed at him, but it fell harmless at his feet. The bow which sped the arrow recoiled upon the reckless archer. The prompt and signal public rebuke which followed the unjust assault, demonstrated how firmly set in the public mind was his character as an honest and impartial Judge."

From the vantage point of sixty years after the event, it is easy to say that Judge Clifford's view was wrong. It was in fact overruled by the Supreme Court of the United States, Mr. Justice Field delivering the opinion of the court, Judge Clifford at the time writing a dissent concurred in by Mr. Justice Miller.

The Court states, in effect, that the situation in the State of Louisiana at the time of the occupation of the territory by the Federal troops was that of a captured province in the possession of an invading army. In looking back through the perspective of history, the decision seems absolutely right. Whatever technicalities may have interested the legal minds of that day as to whether one of the States of the Union could be in the position of a conquered territory, the fact remains that, as a practical question, Louisiana was, owing to peculiar conditions of the occupation, nearer to that status than any other. As the court points out, if, under those circumstances, a general of the Federal army had been subject to be called upon by the civil magistrates of Louisiana to answer to every suit brought against him, it certainly would have seriously interfered with the performance of his duties, and would have rendered useless the authority of the

army which he commanded. It is equally true that whatever idea may be held as to the correctness of the decision, but one belief can be entertained as to the charge of Mr. Blaine, and of the perfect fairness of Judge Clifford.

As a sequel to the case, and as an example of the high regard and consideration in which Judge Clifford was held by those with whom he came in contact during his judicial life, the following letter and enclosure will serve as the best evidence.

PORTLAND, ME.
July 31, 1877.

HON. NATHAN CLIFFORD,
Justice of United States,
Supreme Court,
PORTLAND, MAINE.

MY DEAR JUDGE:

After the announcement of the decision of the Case Bradish Johnson *vs.* Neal Dow, by the United States Circuit Court in this District, I was pained to see in the public papers of the day, a reference to that decision imputed to Hon. J. G. Blaine, in a political speech.

My high respect for yourself individually and in your judicial office, and my sense of official and professional obligation seemed alike to demand that I should at once correct as far as in my power a mistaken representation of that case, no less injurious to him who circulated it, than unjust to yourself.

Accordingly I addressed to Mr. Blaine by mail, the letter of which I enclose a substantial copy.— I say a substantial copy, because I only retained the first draft, and quite likely, made verbal changes, when transcribing it to forward to Mr. B.—

Of course I have no knowledge whether that letter was ever received.

The temporary notoriety given to the matter has now subsided. But looking over my papers to-day, I am reminded

of it, and take the liberty of recurring to the affair, to assure you in this way how little sympathy I had with the attack on you.

Permit me to add, what you well know, that this letter was written without your knowledge, and without any suggestion from you, or any one in your behalf, but solely under the prompting of the motives I have stated,

I am Sir

Very Respectfully

Your Obedient Servant,

NATHAN WEBB

COPY

PORTLAND, ME.
Sept. 30, 1876.

MY DEAR BLAINE:

Be careful about citing in your speeches for the sake of a good point, the case of Bradish Johnson *v.* Neal Dow, recently passed upon by the Circuit Court in this city, for a true statement of the facts in that case may recoil to your own disadvantage, as well as to the injury of the cause you have at heart.

I presume, in the use you make of that decision of the Court you are acting under a wrong impression & would not knowingly hazard anything by an argument that can be turned against you with effect. And so I am prompted, after reading in the morning paper a report of your reference to this matter, to give you the facts, as they came to my knowledge from my participation in the defence; acting as I do to protect the interests of the United States in the case.

In the first place Bradish Johnson the Ptff. claims to be, and always to have been a loyal citizen, residing in the State of New York, and owning a plantation in Louisiana. His original suit in the District Court of New Orleans was commenced January 29, 1863, while the city was in possession of the United States troops, and charges that besides twenty-four hogsheads of sugar taken by the command of Capt. W. B. Snell, "plundered the dwelling house of said plantation, which

house and contents was likewise the private property of the Petitioner and took therefrom one silver pitcher, a half dozen silver knives, a half dozen silver spoons, one fish knife, a half dozen silver teaspoons & other articles which cannot be specified at the present time, but which petitioner reserves to himself the right to claim in these proceedings."

"That these illegal, wanton and oppressive and unjustifiable acts and doings of Capt Snell & the officers and soldiers under his command were perpetrated under a verbal and secret order of Neal Dow, who was then and there a Brig. Genl. in command, &c."—"and who, by his secret orders, unauthorized by his superiors, or by any provisions of law martial, or by any requirement of necessity growing out of the state of war wantonly abused his power, and inflicted upon the petitioner the wrongs complained of, &c &c."

The record shows that personal notice of the commencement of the suit was given to Mr. Dow. No appearance in defence was made by him. It is rumored, with what truth I do not know, and cannot even guess, that Genl. Dow communicated the fact of this proceeding against him to Genl. Banks, commanding the Department at the time, and was assured that suitable orders to stay the proceeding of the Court should be issued, as the Courts at that time were to an extent running under the authority of the military powers. However that may be, no orders appear to have been promulgated, and the action was defaulted, and judgment rendered on the default for something over $1400. against Mr. Dow. Of course Dow did not pay, and after his return to Maine, at the conclusion of his service in the army, Johnson commenced an action against him, in the Circuit Court in Maine, upon that judgement.

Mr. Dow retained as his attorneys, the late Judge Woodbury Davis, and Hon. Josiah H. Drummond, or rather he retained originally Judge Fox, now of the United States District Court, who on being appointed Judge turned the case over to the gentlemen first named. They first pleaded that there was no such record of judgement of the Louisiana Court; and by leave of Court also filed three special pleas, setting out the condition of public affairs at New Orleans at the time of alleged tres-

passes; the official character of Mr. Dow &c &c, to show that the Court had no jurisdiction and the judgement was void.

Johnson's attorneys, Bion Bradbury and John Rand Esqrs. replied that there was such a record, and that the Court did have jurisdiction. In the meantime Judge Davis had died, and I was called on as U. S. Atty. to represent the Government & to protect its interests as liable to indemnify Mr. Dow. Mr. Drummond and I filed a demurrer to this replication of Plaintiffs, and thus raised questions of pure law which were argued before Judge Clifford more than two years ago.

It became known before long, that Judge Clifford found the questions presented very difficult, and that he deemed them of too much public importance to be determined by any single judge, and that he desired to have them submitted to the consideration of the full Supreme Court of the United States. He invited the co-operation of Judge Fox, who declined on the ground, that having been of counsel, he was disqualified by law to sit; Judge Shepley's aid was sought, and he considered himself disqualified by the fact that at the date of the commencement of proceedings in Louisiana, he was military Governor of that State, and had issued certain orders for re-opening the Courts.

Judge Clifford was not only troubled by the difficulty of the legal questions presented, and unable to come to a conclusion upon which he was fully satisfied, but he was also unwilling to pass upon and settle finally by his single judgement these important matters. If he passed upon them alone his determination could not be revised, but would be final.

To overcome these difficulties he called in Judge Clark, to the end that by a division of opinion, a door might be opened for getting the subject before the Supreme Court. So a few weeks ago Judge Clark came down, the case was re-argued, and *pro forma*, the two Judges took opposite sides; it did not matter which side either took. But as by the law as it now stands, the opinion of Judge Clifford must for the time being stand as the opinion of the Court, upon which judgement must be entered, he took that side which in any event would obviate necessity for further trial in the Circuit Court, for if over-

ruled that would end the case, and if sustained the amount of judgement would be already ascertained. A certificate of division was signed by the two judges as part of the record. And the next day I took steps to obtain a writ of error to the Supreme Court, which will be entered at the approaching October term of that Court.

Now I do not doubt that when you understand the real state of things, as I have here given them, you will agree with me, that as a matter of policy simply, the use you have made of this case is unlucky. And I believe you will regret having through misapprehension done injustice to Judge Clifford, who is one of the most candid and impartial of Judges, founding his hope of fame in the future, on a sincere and earnest purpose by all the effort he is capable of, to win the praise of an upright and learned and faithful Judge.

I have felt it my duty to you, to the cause for which you are laboring, and with which I most heartily sympathize, and to the Court, to write this long letter to you.

Very Truly yours

NATHAN WEBB

CHAPTER XII

The Electoral Commission

THE record of the Electoral Commission[1] is a page of History of which every American may be ashamed and proud at the same time. That a great crisis was passed through without revolution, that riot and bloodshed were avoided by the good sense and patriotic endeavors of members of Congress, and that the result of those efforts was concurred in by the country, are facts in which any citizen may take comfort. On the other hand, when one studies in detail the votes cast upon each of the points presented for decision, he cannot but be disgusted that, of the 15 men on the tribunal, not one could rise above a partisan bias in a matter of such import.

A brief consideration of the events leading up to the selection of the court is necessary if one is to understand Judge Clifford's part therein. On November 8, 1876, nearly every morning newspaper in the country announced the election of Mr. Tilden as President of the United States. On the evening of the same day the Republican National Committee issued a bulletin giving Hayes 185 and Tilden 184 votes in the electoral college. It soon appeared that the result depended upon the counts in the States of South Carolina, Florida, Louisiana and Oregon. It was also evident that South Carolina and Oregon had gone for Hayes and that on the face of the returns Tilden had carried Florida and Louisiana.

[1] This account follows the narrative in Rhodes, *History of the United States from the Compromise of 1850*, vol. vii., pages 227–285.

Under the carpet bag régime which had been instituted by the Republican Party in the Southern States, there were so-called canvassing boards in Florida and Louisiana which had the power to throw out votes which they considered had been obtained through intimidation or fraud. These bodies were in the control of the Republicans. In Florida the returns showed on their face a majority of 90 for Tilden, which on account of alleged irregularities was converted into one of 925 for Hayes by the local officials. On November 10th President Grant invited several prominent Republicans to go to New Orleans, to superintend the recounting of the Louisiana votes and Abram S. Hewitt, Chairman of the National Democratic Committee, issued a like call to members of his party. Twenty-five Republicans and twenty-three Democrats responded. These men were known as the "visiting statesmen."

The decision in the State of Louisiana lay with a board composed of James Madison Wells, Thomas C. Anderson and two colored men named Casanave and Kenner. All were Republicans. Wells, its President, was surveyor of the Port of New Orleans. Of him Sheridan had written that he was "a political trickster and a dishonest man." Kenner had been indicted for larceny. Anderson was said to be corrupt and Casanave has been called "an ignorant nonentity."[1] Yet so warped were the feelings at this time that John Sherman, one of the visiting statesmen, wrote to Hayes: "I . . . have formed a high opinion of Governor Wells and Colonel Anderson. They are firm, judicious and, as far as I can judge thoroughly honest and conscientious." There seems to be little doubt that Wells offered the vote of Louisiana to Tilden for $200,000.

It is perhaps hazarding too much to say that if the visiting statesmen had stayed at home Louisiana would have been returned as a Tilden state, but it was easy to foretell

[1] Rhodes, vol. vii., page 231.

the result of this journey, upon the action of such men as Wells and Anderson. They felt that their political future depended on a decision in keeping with the wishes of the representatives of their party who had come all the way from Washington to supervise their conduct. They lived up to what they believed was expected of them by converting the apparent Tilden majority into one for Hayes.

The provisions of the Constitution of the United States regarding the counting of the electoral votes were very vague, being that "the President of the Senate shall, in the presence of the Senate and the House of Representatives, open all the certificates, and the votes shall then be counted." Did this mean that the President of the Senate alone should make the decision in case there were two conflicting returns from the same state, or was its significance that the members of the two Houses of Congress should have the power to accept or reject? In 1865, the 22nd joint rule had been adopted, to the effect that "no vote objected to shall be counted except by the concurrent votes of the two Houses." By agreement, the same method had been employed in 1869 and 1873. It was urged by some that this course must still be followed. The Senate was Republican by 17 and the House Democratic by 74.

If the President of the Senate alone should be held to be the arbiter, it was certain that the dispute would be decided in favor of Hayes, as the office was held by Thomas W. Ferry, an intransigent Republican, who could be depended upon to aid his party in this period of stress. However, should the 22nd joint rule be held to be in force, the result would be favorable to the Democrats, as the House would reject the Florida and Louisiana returns, thus giving Tilden a majority, while if the Senate should attempt to throw out votes from other states, neither party would have the requisite number and there would be no

election. The constitution was clear as to what was to be done in such a contingency. It provided that the House should proceed to ballot for President, the votes being taken by states. This would insure the election of Mr. Tilden.

It is difficult to understand how anyone honestly could have advocated the view that the President of the Senate alone had the right to decide what votes should be counted. There was no precedent for such a course and it is doubtful if the idea had ever before been seriously urged. As a joint rule can have no force beyond the life of the Congress which adopts it, and as there was no express acceptance of the 22nd by the body then elected, it is equally hard to comprehend the sincerity of those who contended that it was still binding. One's humor is aroused in noting how little strength the most cherished beliefs of parties have if an application of them in any specific instance will work a hardship to their former advocates.[1] The Democrats, heretofore, had stood for the supremacy of the local as against the Central Government in all except purely national affairs, while the Republican theory had been one of magnifying, as much as possible, the Federal power at the expense of that of the different commonwealths. Yet we find the former insisting that Congress had the right "to go behind the returns" from the different states and to declare whether those results were correct, while the latter party insisted that such a proceeding would be an unjust interference with sovereign rights.

As far as one is able, in looking back, to visualize the situation with regard to the question as to who really was elected President, the facts present themselves about as follows: by the 15th amendment large numbers of negroes had been given the ballot with the result of an increase of 35 electoral votes for the south. Had these newly en-

[1] See Editorial, New York *Tribune*, Feb. 9, 1877.

franchised persons been allowed to exercise their privilege, the disputed states probably would have gone for Hayes. On the other hand there is little doubt that, on the face of the returns, and according to the votes actually cast, the Democrats had won the election. Also if the truth were told, it is probable that the action of the returning boards of Louisiana and Florida in throwing out enough Democratic votes to turn a small majority into a minority was without legal right.

The situation was, to say the least, acute. There was no possibility of an agreement in Congress. Each party threw the cry of fraud in the teeth of the other. There were no constitutional or statutory provisions which would meet the present exigency. Civil war was again predicted. A vast host of men were out of employment. Some Democrats went as far as to suggest that Mr. Tilden should place himself at the head of an army and march on Washington. President Grant was quietly concentrating a strong force in Washington and strengthening its defences. March 4th, the end of the President's term, was drawing near.

How much danger of actual conflict existed, must be left to conjecture. Had the whole matter been allowed to drift, Hayes would have been announced by Ferry as elected. The army would have been at the disposal of the Republicans as Grant was President. Any bellicose steps must then have been taken by the Democrats who relied on the South for support. The Southerners knew what war meant, and it is doubtful whether their assistance would have gone to the extent of giving aid in such a cause. They had been through one such experience and did not propose to burden themselves with another.

During the weeks of suspense, the personalities of the different candidates played an important part in forming public opinion as to the merits of the question at issue.

Mr. Rhodes, in speaking of Mr. Tilden, uses the following language:

"Tilden did not rise to the emergency. In quiet times he would have made a good President, but he was entirely lacking in both the physical and moral courage needed in a leader during the turbulent times which succeeded election day."

He was greatly injured in the public eye by the attitude of some of his so-called friends. More recent judgment has entirely exonerated him from any connection with the undoubted efforts at bribery which were made in his name. Yet, at the time, no rumor was too base to be given credence, and the candidate undoubtedly suffered in public esteem in consequence. A different attitude on his part would have made a more favorable impression on the country. Tilden vacillated when he should have been firm. He wavered when he ought to have presented a bold front, seemingly confident in the virtue of his claim. Hayes, on the other hand, was dignified and appeared well. His utterances were manly and frank and won respect, while those of his rival created distrust.

On December 14, 1876, the judiciary committee of the House reported favorably on a motion for a committee on the whole question. The Senate adopted a similar resolution. Up to January 10, 1877, no agreement had been arrived at by the members. Each side was unable to do more than urge its own arguments. On this date, however, came the first suggestion as to a commission. Mr. Rhodes attributes the change in attitude to the "genial influence of the food" which the chairman had ordered. At all events it is a pleasant thought that a group of partisans, sitting round a table, confronted with the solution of one of the greatest problems ever presented to American statesmen, unyielding each to the other in the least degree till voices were raised and passions kindled,

should be brought back to a proper realization of their duty by the "genial influence of the food" which the tact and foresight of one of their number had provided. Surely no entertainment ever produced better results. None was ever more justified; and if in addition to the effect of the food the result was expedited by a little drink, who will say that anything but praise can attach to him who so greatly contributed to an ending fraught with consequences so momentous.

The first idea was for a tribunal composed of the five senior justices of the Supreme Court of the United States. These were Clifford, Swayne, Davis, Miller and Field. Clifford was the only appointee of a Democratic President, though Field was of that party. Miller and Swayne were Republicans. Davis was classed as an Independent. After various meetings of the joint committee and several amendments to the original scheme, among which the exclusion of some members by lot had played an important part, a plan was devised and agreed to which provided for an electoral commission to consist of fifteen: five senators, five representatives and five justices of the Supreme Court, four of whom were those assigned to the first, third, eighth and ninth circuits (Clifford, Miller, Field and Strong), the four so chosen to select the fifth. The bill also provided that "no electoral vote or votes from any State from which but one return has been received shall be rejected except by the affirmative vote of the two Houses," and also stipulated that in the case of states from which there was more than one certificate, viz.: Florida, Louisiana, South Carolina and Oregon, all such papers should be "submitted to the judgement and decision as to which is the true and lawful electoral vote of such State" of said commission. It was signed by the President January 29, 1877.

In general the measure may be said to have been a

Democratic one. It was well understood among persons who were conversant with the facts surrounding the passage of the bill, that Judge David Davis would be the fifth justice. He had been appointed on the bench by Lincoln. Some even went so far as to contend that he was now a Democrat. However, it is not too much to say that a great many members of that party had voted for the measure chiefly because they were certain that Davis would be the fifteenth man. They felt so sure of the safety of their case in his hands and his name was so openly mentioned in connection with the place, that it seems impossible that Judge Davis should have been ignorant of the general feeling.

Whether Judge Davis knew of the use of his name in connection with the membership on the Commission, the fact remains that the Democrats of the country were counting on him to serve. Under these circumstances it is beyond comprehension why any of that party should fail to do everything possible to carry the scheme into execution. Yet in the face of this desire the Democrats in the Illinois Legislature combined with the Independents to choose him the United States Senator. This election necessitated Davis' resignation from the bench, and furnishes almost, if not quite, the only instance of the giving up of a United States Supreme Court Judgeship for the purpose of accepting the position of United States Senator. Although his retirement from judicial life was not to take effect till March 4, 1877, it was felt that his service on the Commission was impossible.

When all the circumstances are considered one is led to believe that Judge Davis did not wish to act as a member of that great tribunal. While one may easily understand such a feeling, it is doubtful whether the refusal at this crisis can be justified from the standpoint of the duty of a public man toward his country. If public service be held

to confer upon one the right to reject all disagreeable tasks which fall just outside the regular work of the office which one occupies, yet such a construction has not been accepted by our greatest statesmen. Judge Clifford considered that Davis had been tried and found wanting; that his conduct was that of a weak man, who, when confronted with a moral obligation of great responsibility, was not big enough to live up to the traditions of the ermine which he wore, and failing in courage, took the easiest way of slipping out of a situation fraught with burdens too great for his craven shoulders to bear. In the light of unbiased opinion, such a judgment may be too harsh. Still one must sympathize with the feelings of him for whom no labor was too exacting and no undertaking too dangerous if considered in the line of moral duty. Mr. Rhodes is authority for the statement that Judge Clifford was so surprised at Davis' refusal to serve that he would not believe anything but a written statement to that effect from Davis himself.

To the reader of history, the importance placed upon the election of the fifteenth man seems a slur upon the honor of the other fourteen. It plainly presupposes that all of them would vote on every question according to their political faith. It fails to recognize the possibility of their being changed in opinion by any of the facts presented for their consideration. In other words it practically nullifies their usefulness as members of the Commission[1] and renders them mere dummies for the registration of the opinions of those they were chosen to represent. It is to be regretted that so few of them rose above this expectation. Nor can their actions be justified on the

[1] Stanley Matthews compared the Commission to a Papal Consistory, in which the spirit of inspiration was upon all the members, but that of the Holy Ghost resided especially with the odd man. New York *Tribune*, Feb. 9, 1877.

ground that they considered themselves as elected to carry out the wishes of their respective political parties. They were, in effect, a court, and as such should have borne themselves according to the ethics of American jurists. While it may have been difficult for men taken directly out of Congress to reach such a height, at least the judges of the highest court in the country should have been able easily to attain, in this instance, to the standard set by them daily on the bench. This phase of the matter, therefore, cannot fail to be a source of regret to their countrymen as it is a matter of pride that the patriotism and good sense of the citizens, as a whole, avoided a great catastrophe by the institution, and concurrence in the decision, of a body whose votes could not in all respects command their approval.

In the place of Davis, the four justices elected Bradley. The attitude of this gentleman is in pleasant contrast to that of him whose seat he took. Deeply conscious of the magnitude of the task he was about to assume and keenly alive to its responsibilities, his sensitive nature revolting at the choice, he still accepted without hesitation.

It has been said that the history of the Commission, from the time of its first sitting to that of its adjournment, is told by the figures "8 to 7," representing the vote on every question presented. While to a great extent this is unfortunately true, yet the light of fair play did occasionally change the customary ratio.

On the first day of February, 1877, the Houses of Congress came together in joint session to count the votes for President and Vice-President. No dispute arose till the name of Florida was reached in alphabetical order. As there were three sets of returns from this state, objection was made and the case referred to the Commission according to the provisions of the bill.

The tribunal met in the United States Supreme Court

room in the Capitol. Judge Clifford, the senior justice in point of service, was, by the act, chairman. The members of the Supreme Court, without their robes, sat in the center, the Senators on their right and the Representatives on their left. The personnel of the Commission was as follows: from the Supreme Court, Clifford and Field, (Democrats); Miller, Strong and Bradley, (Republicans); from the Senate, Edmunds of Vermont, Morton of Indiana and Frelinghuysen of New Jersey, (Republicans); Thurman of Ohio and Bayard of Delaware, (Democrats); from the House of Representatives, Payne of Ohio, Hunton of Virginia and Abbott of Massachusetts, (Democrats); Hoar of Massachusetts and Garfield of Ohio, (Republicans).

The most important question to be decided and one which was to establish the precedent in the matter of the elections in other disputed states, was, to quote the commonly used phrase, whether the Commission had the power to "go behind the returns." The tribunal was confronted with the problem of who were to be considered the duly qualified electors. In its solution the arbiters must determine first whether they were confined to ascertaining whom the state said were chosen or whether they were able to inquire into the facts upon which the officials had based their decision, as well as into their good faith and the correctness of their judgement. This latter view would require the investigation of the vote itself to see whether it had been conducted fairly and counted properly. One fact was certain. The Commission was instituted by Congress and by its formation was given what power in the premises Congress was able to confer. It could have no greater rights than the body which created it. The Democrats contended, in spite of the fact that the states were sovereign and judges of their own elections, that the Commission could declare a count, certified by the proper state authorities, invalid. The Republicans were equally in-

sistent that no such privilege existed in any branch of the central government.

Laying aside the constitutional question, there was also presented the practical one of whether in the brief time alloted to the deliberations (only one month), any final determination could be made of a problem, the solution of which might require the examination of thousands of witnesses at a time when partisanship was already aroused to the point where an outbreak and bloodshed were daily threatened and with difficulty restrained. Again, the wisdom of bringing before the Commission and the public, in detail, the outrages which had disgraced the elections in the Southern States, might easily be open to doubt. The tribunal was a court of law. It was also supposed to be a gathering of statesmen.

The facts regarding the controversy in the case of Florida and Oregon will be given somewhat in detail, as it was in the former case that Judge Clifford rendered a dissenting opinion on the question of "going behind the returns," and because the latter shows most clearly the bias of the Commission. The law of Florida provided that when an individual was chosen for the office of presidential elector, after decision to that effect by the State Board of Canvassers, the Governor should make out and sign a certificate, cause the same to be sealed, and transmit it to the person designated therein. The Governor had fulfilled these requirements regarding the four Hayes electors, viz.: Humphreys, Pearce, Holden and Long. A second set of credentials, upon which the Democrats relied, was signed by persons not authorized by the state statute, and was not in accordance with the findings of the Board of Canvassers. A third, also Democratic, bore the name of the Governor who had taken office January 1, 1877. The recently elected state legislature of 1877 had passed a law constituting a new board of state canvassers

who were all Democrats. This latter body had gone over the results of the balloting and pronounced the Tilden electors properly chosen. This award had then been enacted into a statute. Later, *quo warranto* proceedings had been instituted, and the court had declared the Tilden electors to be the properly chosen representatives of the state.

The Commission decided, in effect,[1] that the state governments were the judges of their own elections; that an elector was a state officer; that Congress, and therefore the Electoral Commission, had no power to go into evidence outside the papers opened by the President of the Senate in the presence of the two Houses; that all acts of the executive, legislature or courts of the state after the casting of the electoral votes on the prescribed day were inadmissible; that the only question before it, was which men had the State of Florida, by means of certificates, made out in proper form and according to law, declared to be the authorized electors. When one considers all the facts, he is led to the belief that the determination not to "go behind the returns" had strong constitutional authority as well as great practical wisdom.

Working along these lines it is evident that the Hayes electors were the only ones who fulfilled the above requirements, as their credentials were signed by the Governor in office at the time of the balloting for President according to the report of the state board of canvassers. If the Commission was forbidden by lack of power to examine into the conduct at local polling places it must accept this Governor's certificate unless the *quo warranto* proceedings had made such document invalid. Inasmuch as the decision in this case was not announced until after the electoral college had assembled though the suit had been instituted before, it was held that at the date of

[1] *Proceedings of Congress and Electoral Commission*, 1877, Florida case.

that meeting the certificates of the Hayes men were the only ones in force.

Judge Clifford's dissenting opinion in the case of Florida takes exactly the opposite view. It is a political argument addressed to the excitement of the moment, rather than a closely reasoned legal decision. He emphasizes the legality of the election of the Tilden men and urges the adoption of the result of the *quo warranto* proceedings. He says that evidence to prove fraud or forgery of the certificates should be admitted.[1] The weakness of the contention seems to be that fraud and forgery cannot be placed in the same class. If a writing is forged it is not signed by the person whose name appears thereon and is not such an act of an agent as will bind a principal, whereas in the case of fraud, an instrument may still be perfect on its face, and legally enforceable, and yet have been dishonestly issued. Forgery vitiates. Fraud is only a defence. This is a familiar rule of law. While proof of forgery contradicts a part of the certificate itself, namely, the signature, the admission of evidence of fraud might make necessary the passing of judgment upon the action of the board of canvassers and finally upon that of the individual voters. Fraud would undoubtedly be cognizable by the state authorities. The questions at issue, both as to the power of the Commission and the effect of the *quo warranto* proceedings, are very fine legal points, and it is not surprising that lawyers should differ upon them. The only criticism that can attach to the decisions is that every Democrat should have agreed with Judge Clifford and every Republican with Judge Bradley.

Having established the fact that the Commission was bound by the decision of the proper state authorities, the result in the Louisiana case could easily be foretold. All votes were in the customary ratio 8 to 7. The action of the

[1] See Clifford's opinion in *Proceedings of Electoral Commission.*

canvassing board was upheld. However, with regard to Oregon it would seem that the rule already laid down would have favored the Democratic contention. The law of Oregon stated that the canvass should be made by the Secretary of State in the presence of the Governor, and that the Secretary of State should prepare two lists of those elected which should be signed by himself and the Governor. Hayes unquestionably carried Oregon but unfortunately for him one of Republican electors, Watts, was a deputy postmaste therefore ineligible. The Governor had refused to iss a certificate, but had given one to the candidate r the next largest number of votes, namely, Cronin, crat. Therefore the Commission was confront the dilemma whether to accept the credentials c l, Cartwright and Cronin which were signed by the (rnor and Secretary of State and in proper form accor g to law, or to recognize those of Odell, Cartwright a Watts who, the canvass showed, had received the highest number of votes. It was said that the Democrats had devised this Oregon scheme in order to present a state of facts in which the Republicans would advocate "going behind the returns."

It is difficult to understand the award of Justice Bradley[1] and that of the Commission in rejecting the certificate signed by the Governor and Secretary of State in behalf of Cronin in the face of their opinion rendered in the Florida case. A distinction is drawn between the two sets of facts on the ground that in Florida the canvassing board was given expressly the right to reject votes which were fraudulent, whereas in Oregon the Secretary of State could merely "canvass" the returns; that after such "canvass" his duties and those of the Governor were merely ministerial, carrying with them no power to use any

[1] See Bradley's opinion in Florida Case, *Proceedings of Electoral Commission.*

discretion, and obliging a certification of election to the man highest on the list regardless of his eligibility. Such a limited authority would certainly be unreasonable. It seems apparent, in spite of all legal sophistry, that the determination to accept the election of three Republicans, in place of two Republicans and one Democrat, was in effect a doing of the very thing which was held unconstitutional in the Florida decision.

A careful reading of the testimony and opinions in the controversy leaves the reader in a maze of uncertainty and contradictory facts, of which the greatest is one of thankfulness that the dispute was finally settled without bloodshed. He cannot precisely avoid, however, a sense of regret that intransigeance was so much in evidence.

Two bright spots are visible in this welter of political bigotry. First, in the ballot as to whether the Cronin vote should be counted for Tilden, the result was unanimously in the negative. This signified both that the Democratic members of the Commission were not willing to lend themselves to the support of the Oregon fraud and were consistent in their claim for an impartial examination of the whole controversy. Second, when the South Carolina case came up, the vote was solidly against the Tilden electors.

Judge Clifford never rendered an opinion on any point in controversy after his decision in the Florida case. This fact is illuminating in that it shows how convinced he was of the impossibility of what seemed to him a fair outcome, even in regard to Oregon. He considered Mr. Hayes to be a usurper of the presidential office and never entered the White House during that administration.

As a presiding officer, all parties were unanimous in commending his fairness and impartiality. It was no easy matter to conduct hearings in such a cause in a way to satisfy counsel on both sides, particularly when one felt

as strongly as did Judge Clifford. Yet, in this instance, his greatness as a judge was manifest, and no word of criticism has ever been spoken of his attitude.

To quote again from newspaper articles at the time of his death:

"Whatever may be the verdict of history concerning the motive or character of the final adjudication of that great committee, Americans of the present generation will bear witness that the calmness, wisdom and justice of the venerable presiding officer's rulings and decisions evoked, in the heat of discussion, a frank and universal admiration."

"The most striking illustration of his judicial fairness and independence was given in the discharge of his difficult and delicate office as president of the electoral commission of 1876, of which he was one of the court members. To invite the judges to an office so essentially political was regarded by many as a desperate and perilous experiment. It was indeed one which will not soon be repeated. It was saved from disaster more than once by the high principle which Judge Clifford brought to bear at critical times, deciding incidental questions with reference to their essential character, and quite apart from their supposed partisan bearing at the moment. While having his own opinion as to the substantial merits of the case submitted, he presided with absolute integrity and impartiality. He allowed no delays, no shifts, no devices, no ingenious by-play of counsel, to block the business before them, which business, in his view, was to secure, not the election of one candidate in preference to the other, but a peaceable decision under the forms of law and the rules of the Court."

CHAPTER XIII

The Man

THE ability to experience all those numerous, interwoven and varying sensations of pleasure and pain which come to us daily through our observation of objects beautiful or ugly, is derived from the leisure hours of man. The country bumpkin sitting on an old chair tipped back against the side of the general store and, between expectorations of tobacco juice, whittling a stick, is an example of the crude beginning of what we now term art. The Greeks lolling about under the soft radiance of the Ægean skies and gazing at the distant haze of the Mediterranean, responded to the craving for the creation of something worthy of the glory on which their eyes were feasting. Who has not felt the same desire under similar provocation?

It is during these moments when the press of our endeavors to live up to the duties of our existence are relaxed, that the softer, gentler, and more pleasing side of our nature is given free vent. Therefore the study of no man's life is complete without an acquaintance with his playtime.

The stern, puritanical New Englander did not allow harmless enjoyment to assume its proper position in his scheme of life. Therefore he created little in the vast realm where beauty is supreme, and such contributions as he did make bear the imprint of severity. Still every man has his vacations, be they hours or months, and to them we must look for this phase of his character.

It is easy to picture the life of the farmer's son during

the early years of the nineteenth century. Deacon Clifford was not profuse in his indulgence of his only male offspring, yet that youngster managed to get into about the same scrapes and have practically the same amusements as other boys.

The following extract is taken from a letter to Judge Clifford dated shortly after his appointment on the Supreme Bench, and gives just a glimpse of a harum-scarum young man whom we find difficulty in associating with the august jurist. "Sitting by a cheerful fire one evening . . . my mind was carried back some thirty years to the scenes of my youthful days. A vision of friend Clifford came vividly to view. Thinks I to myself I will just write him a letter to remind him of the days we spent so happily together and I doubt not, you, as well as myself, remember them among the happiest of your life. . . . How many times we have been fishing to Coon Pond and had good times at the East Cove with Osgood, Morris, Quincy and others. Do you remember turning the waggon over in the woods and how you laughed after you found nobody was hurt? And what splendid times we had in the Red Store eating sausages and boiled eggs . . . and a thousand things, as the advertisements say, 'too numerous to mention.'"

On the whole it must be admitted that the existence of a country-bred boy of those days was barren of many of the perfectly innocent diversions which are now considered not only proper but educational. This was particularly true of the books which the youth of that time were allowed to read. To the old-fashioned New England deacon, a novel was the emanation of an evil mind, and no correctly educated child was allowed to indulge in any such improper relaxation. In connection with this subject, an incident should be related which, the reader must agree, falls little short of the pathetic.

One evening when the family were gathered together after supper, Mr. Clifford noticed one of his sons, lying on his stomach on the floor in front of the fire, much absorbed in a book. To the question of the parent as to what the child was reading the boy replied, "*David Copperfield.*" "A novel?" "Yes, sir." "Let me see it. I don't think much of this novel reading." The youth surrendered the book reluctantly and shortly after went upstairs to bed. Mr. Clifford retired to his library.

The next morning at breakfast he appeared as usual and immediately sought out his son. "I have no objection to your reading that sort of book," he said. "Have you any more of Dickens?" The inquiry brought forth the information that Mr. Clifford had not been to bed at all, but had become so fascinated with David's life that he had sat up all night, finishing the story at about five A. M. As a sequel it may be said that he afterwards read all of Dickens' works. Think of the enjoyment he had missed during all the years when good fiction might have been a solace to many lonely periods!

Manhood came early and with it men's pleasures. One of the greatest of these to Mr. Clifford was fishing in the streams of his native and adopted home. Even after he became judge, his brief vacations were usually taken in this manner. His correspondence files are filled with letters from Judge Taney, Judge Nelson, Miller and others thanking him for a "fine salmon," some of which, we regret to say, arrived at their destination in such condition as to be apparent to the nostrils before they were to the eye. Of this sport he never tired. In a letter written from Bangor to his parent in Washington, William Henry describes at length a new kind of fishing rod he has seen and immediately ordered for his father, realizing that nothing of this sort could fail to be of interest or concern to the man who was then sitting on the highest American tribunal.

He was very proud of his Waltonian abilities. The fact that, even after years of confinement, by reason of his exacting sedentary duties, he had not lost his skill, as compared with men who could give more time to his favorite sport, was a source of keen pleasure. He writes:

". . . On monday—Elisha—Horatio and I caught 65 fish, one trout—14 White Perch 9 Pickerals—the rest Yellow Perch chubs etc. etc. Caught these in the Pond & Brown's Brook. Tuesday, William, Major Turner, Dr. Wilson & Mr. Ramsdell & Horatio & I went up to the Mattamiscontis. Frank could not go. We started Tuesday morning. I rode down the Penobscot 4 miles— We went in a Batteau— At the end of my land ride Major Turner took me in his skiff about as large as an Indian Canoe and set me across the Penobscot and down river half a mile to the mouth of the Mattamiscontis— We took both Boats & went up the stream 8 miles where we caught 10 trouts weighing 10 lbs— I caught 4 of them. Then passed up the stream 3 miles farther and pitched our tent upon a beautiful elevation on the left bank which had been pretty well cleared by the Woodsman's fires and was well covered with grass. Wood enough remained for camp purposes— Mr. Ramsdell, who had seen service in the army, pitched the tent and it had every convenience. Major Turner, a forester of 40 years experience, built the camp fires after the fashion of the great old kitchen fires. He constructed the fire at the entrance to the tent which kept off the flies and kept us warm during the night. We were wet, as we had occasionally to wade going the stream, as the water was low. My friends dressed the fish and got as good a dinner as I ever ate. Next morning we rose at ½ past 2, got a splendid breakfast and 4 o'clock started for the "Sam Ayer's Brook," where we caught 60 trout. I caught 9, the smallest would weigh ½ lb and two would weigh each 2 lbs. Many of the number would weigh 2

lbs and several nearly 3 lbs each. I now come to a part of my story which few having no acquaintance with our eastern streams can believe. The trout were in 2 schools not more than 40 rods apart and at times during the day could be seen. I have no doubt we saw a thousand trouts in the two schools & hundreds were larger than any we caught. They would not keep still so that I could use my grapple. Wednesday night we returned to the camp very wet having had 2 fine showers during the day but Major Turner made us a rousing fire and we were soon in a good condition. Mr. Ramsdell got us a very excellent supper. We retired early and slept soundly till break of day. Got a good breakfast and determined to divide our company. Dr. Wilson and Mr. Ramsdell returned to the Sam Ayer Stream. William & the boy & Major Turner & myself went to the south branch which empties into the Mattamiscontis on the right bank. . . .

"We came to a plot of grass on the left bank of the brook where the water is 10 or 12 feet deep. Prior to leaving the camp the company decided that my fly-hooks were too small & we all put large hooks on the lines, of the common kind without flies. We commenced to fish but I got no bite and the others only caught 3 small trout. After fishing an hour and a half I took off the large hook and put on one of the best fly hooks and the first time I threw it into the water two large trout "whisked" at it and I caught six, each of which would weigh a pound, in a few minutes, when the sun came out and the trout would not bite. We returned to camp and in an hour or two our other comrades came but . . . got dinner and struck tent at one P. M. loaded the Boat and started down river— I took the head Boat. Caught two trout going down, and one Eel & I have no doubt 150 chubs."

When, in his later years, he had attained to prominence, he felt the desire for travel. He planned to go abroad to

study first hand the judicial systems of other countries as well as to see for himself the masterpieces of art, of which through years of close confinement to duty, he had read and dreamed. Those were days when a government official was a man to whom all persons felt called upon to show attention and for whom it was no disgrace to accept a favor. In most cases such courtesies were kindly offered and gratefully acknowledged with no idea that the recipient was under any debt other than social. Passes on railroads and steamship lines were given and received without thought of future possible obligation.

Thus when a prominent man was ready to travel abroad or elsewhere, he merely let the fact be known. Cabins and staterooms, transportation and railroad accommodation were at once placed at his disposal. Such an action on the part of an official today would be greatly criticized, and rightly, but in the times of which we are writing, no thought of impropriety was created by a judge journeying from Maine to California or from America to England, with his family and party of friends, occupying the best quarters, absolutely free of expense.

The dream of foreign travel, however, was not to be realized by Mr. Clifford. At the last moment the cares of business and the call of duty prevented. He did, however, once take a trip to the Pacific coast. With this exception, Judge Clifford never took a real vacation after he went on the bench, and it is doubtful if he ever had one. A few days, at most, in the country, along his beloved trout streams, or sitting in the sun on the piazzas of his friends' houses, was the only relaxation in which he ever indulged. It is questionable if the times afford an instance of a public man of equal position who played as little as did Judge Clifford. This trait is shown by his letters. Whether in Augusta, Washington, or Mexico, his time was spent in work. Almost none was given to amusement of any kind.

In circumstances where most persons would have had a royal good time, he seemed to think only of his daily routine. His early life in the legislature or in Congress, and particularly his experiences as ambassador, furnished opportunities for enjoyment, without interference with duty, such as are offered to few men. Yet in all his correspondence there is scarcely any reference to pleasure. The tasks before him had to be done, and were faithfully and laboriously accomplished without apparent thought of anything else. There is hardly a gleam of humor evident. No funny incidents, no amusing anecdotes are related. One almost wonders how, with such characteristics, he was able to rise above the drudge, and yet one readily understands why, in his legal theories, he belonged to the school of strict construction and that his opinions lack that imaginative, far-seeing appreciation of the future which has placed its indelible mark on the writings of Marshall. Incidentally it may be remarked that although the minister may not have yielded to the fascination of Mexico City, his son did. Schoolboy life in a so-called "college," surrounded with all the fascination and charm of the Spanish American atmosphere, was an experience never forgotten and often related. Boyish escapades, sometimes resulting in close confinement in the "dungeon keep" of the old castle used as an academy, though they may have grieved the heart of the father of the participant, were considered as the adventures of a hero, when narrated by the latter to his children.

The explanation of Judge Clifford's seeming lack of capacity for enjoyment is not hard to find. Concentration to him was not the strain that it is to most men. A mental task once begun absorbed all his thoughts. He was at such times as one in a dream. Everything else was forgotten. Judge Fox of the District Court once observed: "It may well be doubted if a tribunal in any country has ever been

favored with a judge, who, for the same length of time, has devoted so many hours to the laborious duties of his office, as has Judge Clifford." Judge Davis has written: "Investigation to Judge Clifford was a labor of love, and industry was a recreation." Senator James W. Bradbury, his lifelong friend, in an address before the Maine Historical Society, said of him: "By his power of application, his unparalleled ability for continuous labor and his conscientious devotion to duty, he was enabled to accomplish his grand life work and achieve the character of a great jurist." So true this is, that the ordinary working time of the day did not suffice. After his appointment on the bench, he was in the habit of rising early and doing two hours' study before other people were about. And he often extended his period of labor well into the night. As a supplement to his industry, he was endowed with a remarkable memory. He often cited, from the bench, the book and page of a decision he had not read for months.

Let it not be considered from the foregoing that he was an ascetic. He was far from it. While he smoked little and drank less, the time spent at meals was a very important part of his day. It was a common occurrence to see him at the Falmouth Hotel in Portland at about eight o'clock in the morning sitting at a table upon which, in addition to the other ordinary breakfast viands of that period, including meats and vegetables, would be placed three goblets of boiled eggs.

His appetite was enormous, as was his size and weight during the latter part of his life. Though he took very little exercise, his heavy eating appeared not to injure his health. Indeed, a large quantity of food seemed essential to his physical body, and was apparently the reserve upon which his great mental labors drew.

Mr. Clifford's early professional life was passed during

the time when Alfred, still the shire town of York County, was in its prime. During the sessions of court, the ladies of Alfred kept open house. Judges and attorneys often met in friendly relaxation over dishes prepared by the proud housewife herself in honor of the expected guests. Many stories are told of these feasts in which Mr. Clifford's love for the good things of the table is shown.

An amusing anecdote of his judicial life is related, and though it may not be true, it serves as a corollary to what has gone before, and is interesting as a newspaper corroboration of his studious habits. It is said that when he came to Portland for the summer, his first act was to seek one John Pike, a barber, with whom he was on terms of intimate acquaintance. The purpose of these visits was to find out whether John, in accordance with custom, would be able to carry on the practice of shaving the Judge before six o'clock in the morning. The answer was always in the affirmative, for we are led to believe that the tonsorial gentleman would have sat up all night rather than miss the privilege. Thus the matter was each time concluded according to the Judge's wishes, and was surrounded with the formality and legal ceremony necessary to such an important contract. The purpose of the arrangement was to enable Judge Clifford to get the news and gossip of the day without the trouble of reading the newspapers, thus giving him more time for his important work, for John Pike was apparently a real barber and had all the characteristics of loquacity for which the profession is distinguished.

No words can add much to the picture of his early family life given in his letters. They show him to have been a devoted husband and a loving and thoughtful father. While his long, enforced absences from home rendered him, at times, a stranger to his younger children, his interest in their training and education was careful and con-

stant. No question regarding their welfare was ever too unimportant to be referred to his judgment.

WASHINGTON CITY Jany 11, 1859

MY DEAR WIFE—

I have but a moment to write. My opinion is that Henry better not join the gymnasium. I fear he may get injured. He is ambitious and venturesome & I think he is old enough now to take more rational exercise. I dislike to deny him a small request, but my honest judgment is against it, looking solely to his own good. He is a good boy and I would yield to his wishes if I thought it was best but I do not. I have not heard from Charles or you. I am well & wish you all health and happiness.

Your husband

NATHAN CLIFFORD

WASHINGTON CITY April 30 1860

MY DEAR SON

Should you not investigate law questions more thoroughly than you have the library I fear you will not make a very accurate lawyer. There are certainly 81 or 82 Eng Com Law Reports instead of twenty as you state. You have looked at English Law & Equity reports but there are at least 40 vols in that set. You were in a hurry when you looked. Some men are always in a hurry and therefore never do anything well. My habit is never to be in a hurry, but to do well whatever I do—& you must come to that habit or you will never be able to earn enough to pay for your mistakes. I think there are twice eleven vols of exchequer reports. Court will adjourn a week from tomorrow—

Your father

NATHAN CLIFFORD

This chapter would be incomplete without some mention of the woman who shared with him all the experiences of his long married life, and who has been described as "a lady of fine sense and wonderful beauty, of the stately and venerable kind." From the time of Judge Clifford's return from Mexico, the separations, which had been so trying to both, were, for the most part, at an end. In spite of slender means and cares of family, the wife was constantly at the side of her husband. Whether in Washington or on the circuit, she always accompanied him. While she was not his mental equal, the perfect sympathy and complete harmony of their association was ideal. To her he was the oracle; to him she was ever the sympathetic, understanding companion. In Washington, Mrs. Clifford's receptions at the National Hotel were conducted with a charm and grace and dignity which, in spite of their simplicity, won the admiration of all who attended them.

Judge Clifford lived to see his sons and daughters happily married and in their turn become the instructors of families of sturdy children. He took great pride in his grandchildren, and his letters are full of references and messages to them. He was always pleased when in conversation or actions they showed the influence of the Democratic training of their forebears. In 1872, he jokingly writes to his son, who had regaled him with the sayings of one of the children: "Tell Nathan I am afraid I cannot make President Grant any better, but if he thinks I can, I will see what can be done. I hope next time we will be able to elect a good Democratic president and then I will give Nathan an invitation to visit us and see the president."

His life was saddened, however, by the death of his son Nathan under very tragic circumstances. The mental equipment of his namesake had led to the belief that he might accomplish great things, but in this case, as in so

many others, a great brilliancy proved to be but a step removed from catastrophe. At f[illegible] it was thought the young man might be cured, but [illegible]time rolled on the unhappy father writes, "Nathan' [illegible]ion casts a gloom over my mind which I find diffi[illegible]off."

He took great interest in the [illegible] William Henry, who edited the four volu[illegible] being his decisions while on the C[illegible] of his later correspondence relates t[illegible] these books, and in one of his letters he [illegible] with amusing vanity, the request, that his ho[illegible]gree of LL.D. should be placed on the title page.

The most difficult circumstance [illegible]hich he had to contend during his entire life was lac[illegible]ney. There was probably no time throughout his ca[illegible]n he could consider himself independent financi[illegible] The prominent positions which he held necessitated [illegible]nditures, large in proportion to his slender means. T[illegible]nildren of a member of Congress, United States Attorn[illegible]y General Minister to Mexico, and Justice of the Supreme Court of the United States moved in a wealthy society, and demanded an education, literary and social, far beyond what their father had received and could easily manage to pay for. Thus his letters to them are full of caution and wise advice as to the uses to which the small sums he was able to send them were to be applied.

Washington City, Feb. 20 1858

My Dear Son—

I hardly know what to say to your request— I am hard pressed for money & have just received a letter from C. that he wants $400. to enable him to return. He must have it as soon as I can raise it. My wish is to oblige you all as far as is consistent with my means, but my funds are

low. I have not a dollar more than sufficient to pay my expenses. I shall re[illegible] home the first of March & shall remain there till th[illegible] day of April when I must return here for a long se[illegible]

If all or [illegible]lass join I must be content, & if you can [illegible] the expense I prefer you would. I [illegible]ay till after the first of April, wh[illegible]uarter or nearly so will become due.

When yo[illegible]s demand, write me, and I will do the best I [illegible]in good health & heard from your mother yester[illegible] is well,

Your father

NATHAN CLIFFORD

PORTLAND March 23, 1858

MY DEAR SON—

Enclosed I send you one hundred dollars to pay your Bills with. I have had to borrow it at the bank, & must depend that you will pay up your Bills at once without saving one cent for spending money. If you knew what difficulty I have had in getting it you would conform in every respect to my wishes. I now owe more than I shall receive for salary up to the first of August & have to send $400 to C. to enable him to come home— How I am to raise it I do not know & I fear your next term Bill will trouble me still more. You must be very prudent— I shall leave for Washington on friday of this week. I think you better remain to the close. Devote every hour to study & none to folly & let your hours of sleep be regular. Discipline yourself to regularity & uniformity in everything that is right & good. Remember that a fathers advice is valuable & that the young man who disregards

it in his youth is likely to mourn over his folly in riper years

Your father

NATHAN CLIFFORD

P.S. I sent you $20 & have no letter acknowledging it. Write me immediately & direct to Washington City. D. C. & inform me just how you stand in your money affairs.

BOSTON June 19, 1858

MY DEAR WIFE

I sent you a Parasol by Mrs Brown & hope you will prize it for the source from which it came. I took an excursion out of the City with Mr B. & family friday afternoon and I was much pleased both with the elegance of the dwellings and magnificence of the grounds. One has no satisfactory idea of the wealth of Boston until visiting the environs where it is exhibited in the greatest magnificence. I met nearly all the members of the Bar at Judge Curtis' rooms at the Revere House friday evening including Ch Jus. Shaw & other members of the Supreme Court. All things are moving on very well— I expect to remain all this week & then shall go to Portsmouth. My funds will not allow me to purchase you a trunk now & unless I send you one of mine monday noon you will have to borrow for this journey only— If I do send mine I will direct it to be delivered at the House so that you will have no trouble — I think you better not start till a week from Wednesday morning— I will then have one day at Portsmouth to get settled and have all my arrangements made to receive you— I shall stop at the "Rockingham House."

You will take "the Lower route—" The "upper route" will carry you to Exeter—

After counting my money if I think I can spare enough I shall send the dress & Boots—

I have heard from Henry He received the money & is well—my health is good & I feel new courage in my position— Give my regards to every member of the family.

Very truly
Your husband
NATHAN CLIFFORD.

PORTLAND July 5 1858

MY DEAR SON

Enclosed I send you one hundred dollars—money is very scarce so that *only* $17 is a good deal—you must keep your expenses as low as possible— While I have but one to earn I have several to spend— Nothing is cheap which can be dispensed with—

Your father
NATHAN CLIFFORD

In religion, Mr. Clifford was, at one time, a Congregationalist. In latter years he became dissatisfied with what he considered narrowness in the creed of that denomination and began to attend Unitarian meetings. He was, however, not strictly bound to any sect, though he was a regular Sunday attendant, sometimes to hear one minister and again to listen to the sermon of another. One Washington paper speaks of Judge Clifford's and Judge Davis's constancy in church going as a rare thing among the public men of their time. In 1869 he writes to his son: "I do not disapprove of your course in connecting yourself with the Episcopal church as I think you are pleased with the services and principles of that form of divine worship. We approve the step you have taken and would gladly have been present on the occasion. Make yourself a worthy member and bring up your children under the

influence of upright Christian examples. They are very promising children, and we as grandparents wish you—the highest satisfaction in bringing them up and preparing them for future usefulness."

Harvard University, Dartmouth, Brown and Bowdoin Colleges honored him with the degree of LL.D. He considered Dartmouth in the nature of a quasi *alma mater* and the recognition from it was particularly acceptable. As to Brown, he writes in 1868, "I have forgotten whether I told you that Brown University gave me a degree of LL.D. . . . very well for a Republican college in these high party times."

(*Confidential*)

Concord N. H.
Aug. 1, 1862.

My dear Sir.

I have just returned from Commencement at Dartmouth College, and I am gratified to inform you that the Trustees conferred upon you the degree of L.L.D; which fact was publicly announced from the stage by the President—

This degree, you will recollect, was not conferred upon you two years ago for reasons which I then wrote you— Last year I was unavoidably prevented from attending Commencement, and the matter was accidentally omitted— This year I had only to bring it up before the Board and it was done at once—

But, although it has been deferred, there is really more honor bestowed, so far as our college is concerned, than if it had been granted two years ago—for there have not been ten cases since the foundation of the college where they have bestowed the *degree after* it had been granted by another institution.

If you can make it convenient, I should be pleased to have

you attend Commencement next year—and I have no doubt very many others would be equally pleased with myself.

Yours very truly
IRA A. EASTMAN

HON. NATHAN CLIFFORD
PORTLAND MAINE

As the years went by and Mr. Clifford had passed the three score milestone, even his rugged constitution began to rebel at the strain which he placed upon it. In 1870 he made the following observation: "A bill is before the Senate to add Vermont and Connecticut to the first Circuit. I do not object to Vermont, but I think six states are more than a fair share. I can do a great deal, but not everything."

In the year 1 o he began to show signs of failing health. According to his custom ever since he had been on the bench, he was spending the summer in Portland. While he was at the Falmouth Hotel during this visit, he suffered a slight attack of illness which resulted in the inflammation of a small portion of one foot. The usual remedies were applied and the soreness soon disappeared.

When he seemed to have recovered his health, he started for Washington, stopping in Boston for a few days to hold court. His labors there were brief but trying, and after he had again resumed his journey, but before reaching his destination, he suffered a stroke of apoplexy, which considerably affected his power of speech. On his arrival in Washington he was at once carried to his hotel. He never again took his seat on the bench.

His illness was an apparent giving away of the tissues of the brain. In short, though but seventy-eight years of age, he had done the work which would ordinarily represent the life task of a man of ninety. He was worn out.

The high tension which had been maintained for years had at last told. The aging rope could carry the weight no longer, and snapped. His days of usefulness were over.

Although his mental powers were much weakened by the shock, his mind was never so much enfeebled but that he could converse upon almost any topic, and recognized his many friends and acquaintances who called upon him. He remained in Washington during the Winter and returned to Portland in the Spring. Members of his family, who met his carriage at the door of the Falmouth Hotel, found him fairly active in motion, and with an intellect but little impaired.

During the last months of his life, he was occasionally seen upon the streets of Portland, where he was always cordially greeted by his acquaintances, returning their salutations most heartily. About a month before his death, he went on a visit to his brother-in-law, Hon. Caleb R. Ayer, in Cornish, Maine, where he hoped to regain his health near the hills and valleys of his youth, breathing again the pure air of his adopted home.

For a time his expectation seemed to be in the process of realization. He sat in the sun, read his favorite authors, and sometimes renewed his youth by fishing the streams he loved so well. But his days were numbered. The great frame was tired. The massive brain was worn out. The inroads of disease had reached the point where they could not be arrested. The soreness of foot again returned, grew worse, and as a last resort amputation was tried. All efforts were fruitless, however, and he died July 25, 1881.

It falls to the lot of few to lead as varied a life as Judge Clifford. Mr. R. T. Merrick in his remarks before the Supreme Court of the United States in memory of the dead jurist used the following language:

His long career was distinguished by public service in a greater number and in a greater variety of important offices, state and federal, legislative, executive, and judicial, than were, probably ever held in this country by any other man; and as rising higher and higher he left the one to assume the robes of the other, the gratitude of his countrymen for the past was always mingled with their expressions of confident hope for the future.

There can be no more fitting tribute to his memory than the words of his son cut in the massive stone monument which marks the grave of Judge Clifford in Evergreen Cemetery, Portland, Maine:

A pure and upright man:
A wise Legislator:
A skillful Diplomatist:
A profound Jurist:
A just Judge.

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